

COUNCIL MEETING

AUGUST 22, 2018

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, August 22, 2018 at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun (*present at 8:40 a.m.*)
Honorable Mason K. Chock
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable Derek S.K. Kawakami (*present at 9:06 a.m.*)
Honorable JoAnn A. Yukimura (*present at 8:35 a.m.*)
Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda, as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item.

MINUTES of the following meetings of the Council:

July 11, 2018 Council Meeting
August 8, 2018 Public Hearing re: Bill No. 2715 and Bill No. 2716

Councilmember Kaneshiro moved to approve the Minutes as circulated, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the Minutes as circulated was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

CONSENT CALENDAR:

C 2018-175 Communication (07/13/2018) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Elesther Calipjo to the Planning Commission (*Business*) – Partial Term ending 12/31/2019.

C 2018-176 Communication (07/26/2018) from Councilmember Chock, transmitting for Council consideration and confirmation, Council appointee Aubrey Summers to the Kaua'i Historic Preservation Review Commission (*Architecture*) – Term ending 12/31/2020.

Councilmember Chock moved to receive C 2018-175 and C 2018-176 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-175 and C 2018-176 for the record was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

COMMUNICATIONS:

C 2018-177 Communication (06/27/2018) from the Deputy Chief of Police, requesting Council approval, to accept funding from the Enhanced 911 (E-911) Board, in the amount up to \$312,000.00, which will be used for the remodel of the Kaua'i Public Safety Answering Point (PSAP), as there have been tremendous advancements in ergonomics, technical functionality, and equipment for the Emergency Services Dispatchers: Councilmember Kaneshiro moved to approve C 2018-177, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-177 was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-178 Communication (07/09/2018) from the Chief of Police, requesting Council approval of the indemnification provision in the Intergovernmental License Agreement for Law Enforcement Participants of the Sexual Assault Management System (SAMS 1.0), by and between the County of Kaua'i and the City of Portland, which will allow comprehensive tracking of sexual assault cases and evidence, allowing the Kaua'i Police Department to better serve victims of sexual assault, increase efficiency of multi-agency case collaboration and insure compliance with new sexual assault legislation.

- Intergovernmental License Agreement for Law Enforcement Participants of the Sexual Assault Management System (SAMS 1.0)

Councilmember Chock moved to approve C 2018-178, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-178 was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Thank you very much. Next item, please.

C 2018-179 Communication (07/11/2018) from Michael A. Dahilig, Clerk of the Planning Commission, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, to distinguish two (2) Agriculture Districts, encourage agriculture production, and to discourage the development of "Gentlemen Estates" on lands suitable for long-term agriculture production: Councilmember Chock moved to receive C 2018-179 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-179 for the record was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-180 Communication (07/25/2018) from the Fire Chief, requesting Council approval, to accept a donation of the following items from the Kaua'i Lifeguard Association (KLA):

- One (1) solar public announcement system, valued at \$6,510.00, which will be utilized by the Ocean Safety Bureau to outfit the Pinetrees Tower in Hanalei;
- Eight (8) Bennett surfboards, valued at \$10,068.00, which will be used in the Junior Lifeguard program for educational and promotional purposes, and for documentation of lifeguard training exercises; and
- One (1) Canon camera, Model #1053585, valued at \$1,249.99, which will be used in the Junior Lifeguard program for educational and promotional purposes, and for documentation of lifeguard training exercises.

Councilmember Kagawa moved to approve C 2018-180 with thank-you letter to follow, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I just want to, again, thank Monty Downs and the Kaua'i Lifeguard Association (KLA). We get a lot of things donated for the lifeguards due to KLA and their efforts, and that is free money coming to the taxpayers and actually going to saving and rescuing lives. I just want to thank KLA and I appreciate all of their efforts.

Council Chair Rapozo: Thank you very much. Is there any further discussion?

The motion to approve C 2018-180 with thank-you letter to follow was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Next item, please.

C 2018-181 Communication (07/26/2018) from the Director of Economic Development, requesting Council approval to apply for, receive, and expend funds in the amount of \$51,313.00, from the Hawai'i Tourism Authority's (HTA) Kūkulu Ola Program, and to indemnify HTA, for the Ka Leo O Nā Kupa-Nī'hau Language Preservation Program: Councilmember Chock moved to approve C 2018-181; seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-181 was then put, and carried by a vote of 4:0:3 (*Councilmembers Brun, Kawakami, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-182 Communication (07/31/2018) from the Executive on Transportation, requesting Council approval to apply for, receive, and expend Federal Transit Administration (FTA) Section 5311 Non Urbanized Area Formula Program grant funds, in the amount of \$1,068,000.00, and FTA Section 5339 Non Urbanized Area Formula Program grant funds in the amount of \$900,000.00, and to indemnify the FTA. The Section 5311 grant will fund fifty percent (50%) of bus driver wages, hourly pay, and fringe benefit line items, and the Section 5339 grant will fund eighty percent (80%) of vehicle purchases and miscellaneous transit facility expenses.

(*Councilmember Yukimura was noted as present.*)

Councilmember Chock moved to approve C 2018-182, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Do we have the Transportation Agency?

Council Chair Rapozo: We have no one here. This is all we have. If you want, we can move this over to the Committee for next week. I think it is one of those recurring grants that funds the salaries and equipment, but if you have specific questions.

Councilmember Yukimura: It is a major support for operating moneys, so I just wanted to see how it fit into the whole picture.

Council Chair Rapozo: Okay. If I can entertain a motion to refer this to the Public Safety & Transportation Committee, then we can have the discussion next week. The reason is, and you were not here earlier, but I am concerned about getting our staff out of here today so that they can go and take care of their families and not spend unnecessary time. The Transportation Agency is applying for the grant, they are not here, and that is not for me to go beg them to be here. If they

want the money and the approval, they should be here. They are not. I think I have said that more than enough times throughout these meetings. When the Departments are on the agenda, Wednesdays, one (1) day a week, is Council time. If they are not here and it is not important, then we will just refer it to the Committee.

Councilmember Yukimura: Well, to give them the benefit of the doubt, I think some of them are at the Emergency Operating Center (EOC) already, so it is extraordinary.

Council Chair Rapozo: The world does not end, Councilmember Yukimura. You know that. They have multiple people in every Department that could be here today. It just comes down to whether or not they wanted to be here for whatever reason. Let us just move it to the Committee so we can have the complete discussion and they can have a presentation prepared. I do not want to have them come over here to tell us that they are not ready.

Councilmember Yukimura: Alright. Thank you.

Council Chair Rapozo: I am ready to vote on this today. This is just a simple grant application, but I will leave it up to you folks.

Councilmember Chock: Councilmember Yukimura, do you need to ask questions, because I think we are ready to vote?

Councilmember Yukimura: Okay, and there is no way to ask them to come later on?

Council Chair Rapozo: I do not want to prolong today because, again, it is not time-sensitive. I want to get our staff out of here today.

Councilmember Kaneshiro: I am actually ready to vote on it today. The grant is for expenses that they pay for anyways. There is a County amount on it, but that is an amount that they would be paying in salaries and purchasing of buses anyway. I am okay with it.

Councilmember Yukimura: I agree. We can go ahead.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: But I...

Council Chair Rapozo: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: I hope we are not rushing through real substantive things.

Council Chair Rapozo: I am giving the Council an opportunity. I am not trying to rush it. I am just saying that I am ready. I read the application. It is in the agenda. The application is very specific to what it is going to be used for. I

have read it. I am comfortable. I am one of the biggest critics of the Transportation Agency, so I would say, Councilmember Yukimura, if you have my support, you probably should move forward if you have the votes.

Councilmember Yukimura: Given the other issues on the agenda, I think I will let this go.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: The grant will fund fifty percent (50%) of bus driver wages, hourly pay, fringe benefit line items, and eighty percent (80%) of vehicle purchases. It is all things that they do in their regular day-to-day operations. We are just getting grant money for things that they need to pay for anyway.

Council Chair Rapozo: Again, in the agenda, there is the application that goes down to the vehicle number that is being replaced. It is very complete, and I commend the Transportation Agency for a very thorough application. I am satisfied. With that, the motion was to approve.

The motion to approve C 2018-182 was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kawakami were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-183 Communication (08/06/2018) from the Fire Chief, requesting Council approval to accept, receive, and expend Federal funds, in the amount of \$63,025.00, from the Federal Emergency Management Agency, Assistance to Firefighters Grants (AFG), to be used by the Kaua'i Fire Department (KFD) to purchase a Command Certification Program (CPC) administered through a state-of-the-art Command Training Center (CTC) for Command & Control Training; and to purchase eight (8) laptop computers, eight (8) wireless mice, instructor and simulator software, twelve (12) two-way radios, twelve (12) headsets, three (3) Teledyne boxes, and subscription services for each KFD officer, which are all necessary to run the simulations: Councilmember Kagawa moved to approve C 2018-183, seconded by Councilmember Chock.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-183 was then put, and carried by a vote of 5:0:2 (*Councilmembers Brun and Kawakami were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-184 Communication (08/13/2018) from Councilmember Kawakami, transmitting for Council consideration the following measures for inclusion in the 2019 Hawai'i State Association of Counties (HSAC) Legislative Package and the 2019 County of Kaua'i Legislative Package:

- A Bill for An Act Relating to Tort Liability, to make an exemption from tort liability for the State and Counties arising from lifeguard services, except for gross negligence or wanton acts or omissions.
- A Bill for An Act Relating to Taxation, to provide a taxpayer who hires an individual with a disability a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.
- A Bill for An Act Relating to Taxation, to provide a taxpayer who hires an elderly individual a nonrefundable tax credit for the six-month period after the individual is initially hired by the taxpayer.
- A Bill for An Act Relating to Zoning, to allow Counties with populations less than one hundred thousand to enact a zoning ordinance to amortize or phase out nonconforming single-family transient vacation rental units over a reasonable period of time.
- A Bill for An Act Relating to Transient Accommodations, to proscribe licensing requirements and enforcement provisions for transient vacation rentals under the department of commerce and consumer affairs, which takes effect on January 1, 2020.

(Councilmember Brun was noted as present.)

Councilmember Chock moved to approve C 2018-184, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is everyone comfortable with this package as well? I was going to suggest we move it to the Committee and have Councilmember Kawakami explain these Bills so we can have the discussion.

Councilmember Kagawa: I have a question.

Council Chair Rapozo: Yes.

Councilmember Kagawa: Do we have time?

Council Chair Rapozo: Yes, I just asked Aida. If we refer it to the Committee and we get it to the next Council agenda, we will meet the deadline.

Councilmember Kagawa: I think going to Committee would be a good idea, and the public can see what each item is about as our Hawai'i State Association of Counties (HSAC) Vice Chair can go over each item and explain what HSAC is endorsing.

Council Chair Rapozo: Yes. I think there are some important issues on here and I would like to have some discussion. Councilmember Yukimura.

Councilmember Yukimura: This says that these measures, if approved, would be included in the HSAC Legislative Package and the 2019 County of Kaua'i Legislative Package, which means it is a package approved by both the Mayor and the Council?

Council Chair Rapozo: The County package?

Councilmember Yukimura: Right.

Council Chair Rapozo: Correct. We would approve it here and then the Mayor would also have to approve the same items.

Councilmember Yukimura: Can we get the Mayor involved in the discussion so that we know where he stands?

Council Chair Rapozo: Yes, and that is why—because I am not sure if Councilmember Kawakami reached out to the Administration so we know whether or not. Obviously, if we cannot get the Administration's support on any of these items, there is no sense approving it for the County package.

Councilmember Yukimura: Yes, it cannot go into the County package. It can still be a Council package, right?

Council Chair Rapozo: Correct, and it could be a Mayor's package item if we do not agree.

Councilmember Yukimura: Right. It would be good to get the Mayor involved in the discussion so that we do not just unilaterally act, then send it to him, and then he says, "I do not support it."

Council Chair Rapozo: Okay. Staff, I am not sure if it was already done, but if not, can we send the package over to the Administration for their comments if it has not been done already? I would assume the Mayor is going to agree with these.

Councilmember Yukimura: Well, I have a question about the proposal to "proscribe licensing requirements and enforcement provisions for transient vacation rentals under the department of commerce and consumer affairs." I am not clear what the intent of this is. Is it to substitute regulation of Transient Vacation Rentals (TVRs) that the County is doing, or is it just dealing with Uber, registration, and taxation?

Council Chair Rapozo: Aida just said that all of these Bills are repeat bills from the last session.

Councilmember Yukimura: Well if they are, then everyone knows what they stand for? I do not.

Council Chair Rapozo: That is why I suggested we move it to the Committee, because I do not know the answers. Councilmember Kawakami would know which County introduced each one and their reasons for it. I just have not been going to the meetings, so I do not know. Councilmember Kagawa.

Councilmember Kagawa: Being the alternate representative for HSAC, you are right about a lot of it. We do not get fully educated or engulfed in it because on the flip side, we kind of know that the Legislature is not going to approve it. We know that a lot of the measures that we do put on are a "homerun swing," but the chances are not likely that it will get approved, so it is kind of a catch. We are asking and hoping a lot times for legislation, but we kind of know the answer, which is kind of sad, but true.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: I think I am familiar with all of them except this last one. That would be the only one that I have some request for review on, but I think the rest have been introduced previously multiple times. I am happy to take it to Committee, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Well, one of the reasons why we keep putting this in our package and then nothing happens is because we often do not do our homework to understand the cost implications and all of those things that the Legislature has to look at in approving it or not. It is just kind of a meaningless act of looking good that we are advocating this, but we do not follow-up, lobby, nor address the underlying concerns of the Bill. So, it is just every year—like the amortization of vacation rentals. Actually, that is a more recent one. We have had them on the agenda maybe for three (3) or four (4) times. The transfer of fines and forfeitures, which is the next one, which is support, I think we have had it in our package for at least ten (10) years, maybe more, and nothing happens. I think we need to look at why nothing happens. It is because we do not go and lobby in a really concerted way and talk to them like we did with the excise tax, which took three (3) tries. Do you know what I mean? I have lobbied on the excise tax, and I know you have to go and talk to them, you have to answer their questions, and they have some legitimate concerns. For example, the one about giving tax credits to the taxpayer who hires an individual with disabilities, what are the cost implications? We do not know what the cost implications are. If they are really big, it is hard to advocate. It is nice to put it on the agenda, but it is hard to advocate before the Legislature because then everyone is going to come in and ask for a tax credit for all kinds of good things and then the overall budget will be affected. We have to look at that, but we do not even know, at least I have not seen any information and I asked this question the last time; what are the cost implications of what we are proposing? We do not even know what the cost implications are. We have to be able to answer the question

of, "Why are you advocating this if it is going to cost so much and it is going to set a precedence?"

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I guess in the six (6) years that I have been on this Council, my observation at the Legislature has basically been that if we are asking for something that is going to cost more or is going to ask the State for more responsibility over some issue that they already control, their answer has been "no." It is sad, but true. To say that the Legislature vets their bills or items more than this Council is clearly giving them too much credit. They do not even look at a lot of bills. They do not even hold any meeting on it. They just kill it in privacy. I think let us not give them too much credit. We do need to work better together, but I think to say that the Legislature has been open to our suggestions at the County-level is simply not true in my estimation. Thank you.

Council Chair Rapozo: And I would agree with that statement. I have been up there quite often. We had a concerted effort to the Transient Accommodations Tax (TAT)—statewide Mayors, Councils, HSAC, Hawai'i County of Mayors (HCOM), individual Councils, and individual Council Chairs. I have never seen any kind of effort like we put for the TAT, and nothing happened. We got screwed. I agree with you, Councilmember Yukimura, to a certain extent. But at the end of the day, I think what Councilmember Kagawa is saying is if it involves moneys that the State is going to lose, you can forget about it. I will not discuss C 2018-185 until we get there, but responsible legislation would be to determine the fiscal impact, obviously. We would need to know that number and to expect the State to participate in the discussion, but often times, it is not that easy to get. How do you put an amount? How many employers are going to go out and hire people with disabilities? We just do not know that number. How many of them have them onboard now? Some of these numbers are very difficult to get, and I think that is the dilemma that a lot of Legislators are in. What is the impact going to be? Go ahead.

Councilmember Yukimura: Council Chair Rapozo, I think as a matter of practice, it would be good when we have bills proposed for our legislative package, to have a briefing paper that tells us what this bill proposes to do. For example, the Bill regarding licensing and enforcement provisions for transient vacation rentals, that it is proposing to put under the Department of Commerce and Consumer Affairs, to have a briefing paper that tells us what the Bill proposes to do, what its cost implications are to the extent that we are able to determine this—at the Legislature, they are good at doing that. There is a way even though it is an estimate. Then, other issues related to the subject matter so that we can vote on the package item in an informed way.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: I agree. For the item that she is picking out, if it is a statewide problem, it is better that the State deals holistically with this issue as far as online bed and breakfasts (B&Bs) and Airbnbs. To have the State have one (1) rule for the whole State of course would be better, but again, that is asking

them for more responsibility and the State is famous for, "Yes, we will take the responsibility where we collect more fees," but when it comes to actual enforcement, I do not know whether they will be performing better than the Counties. I think we do need more answers and I think Planning probably can add to some of what this Bill is asking. I think maybe the Planning Directors all have had some say on this Bill, so let us push it to next week. I do not think we should be discussing this today in too much detail, as Committee would be the perfect place.

Council Chair Rapozo: Go ahead. I am sorry, Councilmember Kaneshiro.

Councilmember Kaneshiro: But we do have the Bill and the description of the Bill. I know in the past when the disabilities one came up, Councilmember Kawakami explained that when bills go to the Legislature, they like to have the number blank because then it gives them the flexibility to adjust it the way they want and discuss it. Again, I do not know how it works there, but I know Councilmember Kawakami did talk about it in the last meeting about leaving the amounts blank as far as dollar-wise goes.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: In order for the State Legislature to fill in the blank, they have to have the information I am talking about; what is the estimate number of taxpayers who take advantage of this? Then, they would know where to set it so they could know what the cost implications are. To just sign a blank check does not make sense either as a Council that is advocating it or as a Legislature that is passing it. So, what I am talking about is a practice of having a briefing paper with every proposed legislation. If HSAC adapted that practice, then when bills come to us from other Counties, we would have a better idea of what is being proposed, what the underlying intention was, what the implications are, and it would also allow us to make a better decision. I am talking about a practice that we might establish first here as a model and then when we can see how well it works, maybe we can propose this to HSAC.

Council Chair Rapozo: Sounds good. Thank you. With that, is there any other discussion? I will just need a motion to refer to the September 5, 2018 Economic Development & Intergovernmental Relations (EDIR) Committee.

Councilmember Kaneshiro moved to refer C 2018-184 to the September 5, 2018 Economic Development & Intergovernmental Relations Committee Meeting, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any further discussion? September 5th is my birthday by the way, just to let you folks know. Nothing big.

Councilmember Yukimura: He is going to treat us to lunch.

The motion to refer C 2018-184 to the September 5, 2018 Economic Development & Intergovernmental Relations Committee Meeting was then put, and carried by a vote of 6:0:1 (*Councilmember Kawakami was excused*).

Council Chair Rapozo: Thank you very much. Next item, please.

C 2018-185 Communication (08/13/2018) from Council Chair Rapozo, transmitting for Council consideration the following measure for inclusion in the 2019 Hawai'i State Association of Counties (HSAC) Legislative Package and the 2019 County of Kaua'i Legislative Package:

- A Bill for An Act Relating to Unadjudicated Traffic Fines, to transfer certain fines and forfeitures collected for uncontested traffic infractions to the counties.

Councilmember Yukimura: Council Chair Rapozo, do you want to refer it Committee, too?

Council Chair Rapozo: Yes. Let us just do it all so we can have all of the discussions.

Councilmember Yukimura: If I make the motion now, then we still can have a discussion?

Council Chair Rapozo: Yes.

Councilmember Yukimura: Okay.

Councilmember Yukimura moved to refer C 2018-185 to the September 5, 2018 Economic Development & Intergovernmental Relations Committee Meeting, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: Council Chair Rapozo.

Council Chair Rapozo: Yes, go ahead.

Councilmember Yukimura: I know we have addressed this many years and it is an important one, can you tell me what the figure is that we would get?

Council Chair Rapozo: Does anyone remember what it was? I honestly do not remember. I will have it next week.

Councilmember Yukimura: Well, we have time.

Council Chair Rapozo: You are right, I do not know if it is ten (10), but I know we have had it on several packages. Joe Souki was one of the roadblocks through all of this. He is a good friend of mine, but he gave me a very historical

description or reason why other Legislators believed that it is their money. The bottom-line is this, it is like déjà vu because we say this every year. The County police officer gives a ticket, the County prosecutor files the complaint, the violator writes a check and puts the money in an envelope, and mails it in or they take it to the courthouse, and then it is done. The State, except for opening the envelope and depositing the check, has no role in this other than to collect the money. It is our police officer that goes out. We have heard this story every year, and we are not asking for more money. We are asking for a percentage. We are asking for a small cut of the uncontested fines, uncontested, expect they keep the airport, all of the State properties, and all of the violations like parking here at the parking lot would not be subject to the percentage. This is what our officers are doing out on the highways and that people are not fighting or contesting. It is all County work and we are just asking for a very small percentage of that. Councilmember Kagawa.

Councilmember Kagawa: The form with the request for settlement or payment gets mailed from the Courts, right? The form gets mailed out by the Courts, right?

Council Chair Rapozo: No, the ticket. The person gets a ticket.

Councilmember Kagawa: Yes.

Council Chair Rapozo: When you get a ticket, on the back...

Councilmember Kagawa: Oh, you can settle it?

Council Chair Rapozo: Yes.

Councilmember Kagawa: And then you mail it to the Courts?

Council Chair Rapozo: Correct.

Councilmember Kagawa: So they have a play because they have to open the envelope.

Council Chair Rapozo: Well, that is why I said aside from opening the envelope and depositing the check, they have no role. It is our officers. The frustration is, and I would say this, the majority of the people on the road think that the Counties get a percentage or the fines from the officers' tickets. There is a huge problem with the officers out there on the street because people think that they are just writing tickets because they are raising money for the County, which is simply not true. Others will argue that this will give them an incentive to go and give more tickets. They are not going to do that. They are busy enough. They are not going to go out and give tickets because it is going to create more revenue for the County. This is really to offset the expenses of our police departments to go out and do that. That is all it is. Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, you make compelling arguments, so I think if that is in a briefing statement and it goes to the other

Counties—I know they have not objected to it, but wherever the item goes and it has the briefing statement, I think it makes the information and the reasons more available to the public and to everyone. It gives us more chance to get it passed. I would like to know not just the fines that would come back to the County of Kauaʻi, but to Maui County, Hawaiʻi County, and Oʻahu to see what we are talking about.

Council Chair Rapozo: I know we have that, right? I know we had the response a while back. I will go dig it up.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I just want to reiterate my first statement, that for the past six (6) years that I have been on this Council, every request that we have made to ask for more funding or what have you, the answer from the Legislature has been “no,” and I hope that changes.

Council Chair Rapozo: Well, we will have a new Legislature somewhat. We will have new people in there this year. We have had many versions of this proposal. We have had where we had the blank, we have had where we had a percentage, and we tried all kinds of ways to do it. So, we will see how it goes. I think it is something that the entire State, all of the Counties, have to really lobby hard for, but it is going to be difficult. We have to get our Delegation behind us. That is the first challenge, getting our Delegation behind it. We all know how that goes. Is there any further discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2018-185 to the September 5, 2018 Economic Development & Intergovernmental Relations Committee Meeting was then put, and carried by a vote of 6:0:1 (*Councilmember Kawakami was excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-186 Communication (08/13/2018) from Councilmember Kawakami and Councilmember Kaneshiro, transmitting for Council consideration, A Bill For An Ordinance Amending Chapter 23, Kauaʻi County Code 1987, As Amended, Relating to the Sunshine Market, to expand the list of agricultural products allowed to be sold at Sunshine Markets to include meat, shellfish, eggs, and whole fish: Councilmember Kagawa moved to receive C 2018-186 for the record, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Why are we receiving it?

Council Chair Rapozo: This is the Communication.

Councilmember Kagawa: It is a Communication for the Bill.

Council Chair Rapozo: The Bill will come up later.

Councilmember Yukimura: Oh, okay. I thought I saw some indication that we would be deferring this. Is that true?

Council Chair Rapozo: Oh, yes. There is a note to defer on the agenda, but that is the Bill. This is just the Communication.

Councilmember Yukimura: Right. Can we discuss the substance of the substance of the Bill? I think the intention is a good one, but as I understand it, there are a lot of complications when you start selling fresh fish and things like that because you need to have certain control and regulations. I figured that with the Bill being introduced, that these things have been worked out.

Council Chair Rapozo: Does anyone have an answer? I just see the deferral. I would assume that we are going to have the discussion.

Councilmember Yukimura: When the Bill comes up?

Council Chair Rapozo: Or we can have it now. It does not matter.

Councilmember Yukimura: It is the Office of Economic Development (OED), because they are the ones that administer the Sunshine Markets, right, and this is to allow meat, shellfish, eggs, and whole fish to be sold at the Sunshine Market?

Council Chair Rapozo: I have a lot of questions as well. But again...

Councilmember Kaneshiro: If the motion is to defer, we should just defer it and get our questions ready. Then when it comes back up, we ask the questions then. I do not see them asking us to defer and we ask them a whole bunch of questions on it.

Council Chair Rapozo: Is the request to defer coming from the Administration or is it from the introducers?

Councilmember Kaneshiro: It was from the Administration.

Council Chair Rapozo: Oh, okay. I would suggest that we—did they explain why? What was the reason for the request for the deferral?

SCOTT K. SATO, Deputy County Clerk: They wanted to prepare possible amendments.

Councilmember Yukimura: They are preparing amendments?

Mr. Sato: Possible.

Councilmember Yukimura: Possible.

Council Chair Rapozo: Okay. Councilmember Kagawa.

Councilmember Kagawa: I understand some of the concerns about what we are up against, but if you look back at history, this is Kaua'i. We have people selling *akule*, *ahi*, and *aku* on the road. *Aku* does not really have a long shelf life, but we have it. We have people selling Sugarloaf Pineapple in Kapa'a and tamales.

Councilmember Yukimura: Coconuts.

Councilmember Kagawa: We have a lot of food that has historically been sold on the side of the road, and I admit that if it is illegal, I am a regular customer. I think for a rural community, to have that, it has already been done. The County should support having that so that people who are not comfortable stopping on the side of the road, they can have the farmers market to stop at. It seems to make sense. When you talk to the local cattle industry and other livestock, they talk about how it is frustrating because you have Costco selling this beautiful looking rib eye and frankly, their meat is not going to stack up. But when you eat it, local people know that the taste is better. It is different. I think there is a market for it and I think the County's farmers market would be a good place. Now, whether we can jump over all of these hurdles to make sure that we do not jump into lawsuits is good, because we are the ones with the deep pocket, right? Government. We need to be a little more careful than the person parking on the side of the road and opening up his cooler. On face-value, I thank Councilmember Kaneshiro and Councilmember Kawakami for bringing this subject up because certainly, our cattle industry and other livestock do not make much money when they have to send it overseas to the mainland and get their product sold. I think whether or not it works, it is a good "homerun swing" and try to take care of something because like I said, it has been done for generations on the side of the road; smoked meat or whatever. Thank you.

(Councilmember Kawakami was noted as present.)

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: This was brought up. Someone came to see me about this, so I called and it was already being worked on. Everyone knows that I used to sell smoked meat on the side of the road. It is not a secret. I had an approved kitchen. Everything was legitimate. It was legal, taxes, one million

dollar (\$1,000,000) insurance policy, and that is the same thing we have to look at with these people. The people that are asking to sell meats are regular businesses. I went to the Kīlauea farmers market and there is someone there selling meat, but we cannot do it at a County one. These are legitimate businesses and I think there is a market for local meats at these Sunshine Markets. Not everyone—Councilmember Kagawa brought it up. We go to Costco and buy our meat, but not everyone likes the locally grown meat, but I think there is a really good business opportunity here at the Sunshine Markets. I think this is a great opportunity. I am kind of shocked at all of the questions and whatnot, but even the fishermen have licenses. They have licenses to sell fish. Even the people on the side of the road. Those are legitimate businesses trying to do it, trying to make it. I think this is a great opportunity and I think we should put it on and have these people promote their businesses at the County farmers markets. I was not aware that they could not sell meat at the County Sunshine markets until someone called me and gave me an earful about it. That is why we called and Mauna Kea was already working on it. I think it is a good opportunity and I think we should look into it and get it done.

Council Chair Rapozo: Well, we are already allowing it on the side of the roads. Like Councilmember Brun, he gets his smoked meat, gets a vendors certificate, proof of insurance, and all of those things. So, it is okay for him to do it on the side of road by Puhi, why not allow him to do it at the Sunshine Market?

Councilmember Brun: Yes.

Council Chair Rapozo: As long as those protections are in place, really, we just have to protect the County from liability. I think we have to be aware of the fish and so forth, but the administrative rules that the Office of Economic Development promulgates is required by this Bill. They have to clear all of that up because you treat fish and meat a little different than you treat a Sugarloaf Pineapple. Obviously, you have to make sure this person has proper refrigeration and all of that. That is for them to decide. My point is that we are already doing it for some vendor on the side of the road. All we are asking is that they be allowed to do it at the Sunshine Markets, which makes absolute sense.

Councilmember Brun: I think a lot of these people are already inspected by the State and Federal governments. How many of those vegetable farmers at the Sunshine Market is being inspected, especially now that we have the rat lungworm disease that is going on. Do you know what I mean? I think this is safer than a lot of the vegetables that we have there at the Sunshine Market. I am just kind of confused why we did not let these people do it when they are legit businesses. How many of these people are being inspected there with the vegetables?

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Brun: That could be really dirty. We do not know.
Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I totally agree that these products should be allowed to be sold at the Sunshine Market, but it is as you said, Council Chair Rapozo, as long as all of these protections are in place and also as Councilmember Kagawa said, we have huge liability if something goes wrong. So, the law needs to make clear that these kinds of protections are required and the rules and regulations issued by the Office of Economic Development, which administers our Sunshine Markets, needs to tie that down because we have to distinguish between those who are legitimate, have the protections, and have the proper process against those who do not. They may apply for Sunshine Markets, too, so you just have to have the protections in place. Until we do, I do not think we should be allowing it. So, that is the detail that needs to be worked out.

Council Chair Rapozo: And that is exactly what this Bill does.

Councilmember Kaneshiro: Yes. This Bill is just catching up to the times. This Bill will allow people to do it. It is same as the vegetables now. The Sunshine Markets have all of these requirements that the vendors need to do. They check the farm, make sure they are an actual farmer, and are not bringing produce in from Costco or something like that. They have all of those rules. This just allows the ranchers to get involved. They are going to create all of those rules. It is nothing new. I believe Kukui'ula Market sells meat right now. I think Rancher's daughter meat. They do it throughout the State. I am sure they do it in the United States also, so I do not think it is a new concept. They cannot do it now because we do not have this passed or we do not have this going through. Once we give them the ability to do it, of course, they are going to work on these laws before they start getting people to come and sell it at the Sunshine Market. It is a matter of us giving them the ability to know that, yes, we want this to happen. I think it is a natural progression and it should happen. But again, I think with them asking for the deferral, I think we should just hold our questions and wait until it comes back up when they are here and ready to talk about it.

Council Chair Rapozo: I would agree. Councilmember Kagawa and then Councilmember Kawakami.

Councilmember Kagawa: I think the last point is that, for me, we are solving this question because I am around a lot of fishermen and the question they ask me is, "Can you folks help us with a solution because we work so hard to try to catch fish and be sustainable, just even to break even to sustain our hobby? We catch these two hundred (200) pound tunas and the best we can get is two dollars (\$2) a pound." When they go into any *poke* shop, they are selling at sixteen dollars (\$16) a pound. So they are saying, "Can you folks help, because I think if I am not mistaken, we are doing all the work. We are taking all of the liabilities when we go out and fish and all of the expense if we do not catch. We get two dollars (\$2) a pound, while the *poke* shop is going to sell it at sixteen dollars (\$16) a pound. How can you help us out?" To me, we can help. With the crowds that I see at the farmers markets, I do not know who would not want to pay a lot less than sixteen dollars (\$16) a pound. Cut that in half. People know how to make their own *poke* and what have you. This is really a direct solution to these fishermen and maybe we do not have to catch all of these small fish and what have you. We can be more sustainable. We can throw

them back because we are not struggling again because we have a solution to that problem. I think this is a great solution right here and we should pursue it.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. The reason why we introduced this Bill is this is the next evolution of our great Sunshine Markets. Previously, you were only allowed to sell raw produce and fruits, and we changed that. We allowed value-added and this is the next evolution that is supporting local agriculture. It is improving something that we currently have. If you are worried about liability, read the Bill. On page 2, (d)(1), "Sign an indemnification agreement developed by the County Attorney holding the County harmless and releasing it from all liability." Maybe the County Attorney can come up and verify that, but we go back and forth on liability and why we are so scared to go and approve something that is very simple. I come from the grocery industry and Councilmember Kaneshiro comes from the ranching industry, so we know these industries well and the people have asked for it. They want these type of items in our Sunshine Markets and I think it would be a great asset to the County. Mauna Kea, does this language pretty much cover the liability side?

Council Chair Rapozo: We will have it on the discussion. I think it is the same Bill that we used for the fruits, vegetables, and value-added. It is the same Bill. We are adding this in, so I think the protections are there. My only question was why the request for deferral? What is the Administration—it is coming from the Administration, not from the Council. The Council is ready to move, I think, but they are asking for a deferral. I do not know why. I am just saying that we give them that opportunity, but the discussion with us would have been helpful, in my opinion. If the Administration is looking at amendments, why would the Administration not want to have that discussion with the Council if we are going to discuss amendments we do it together? Now, they will come up at some later time and then the Council is going to have questions. To me, it would just make sense that we have the discussion together as a County so that when amendments come across, it will incorporate Council and the Administration. I am going to honor the request of the Administration to defer. I still believe this discussion should be had and it does not have to be in the Bill. It can be on a communication. It could be on an agenda item in the Economic Development & Intergovernmental Relations Committee. But I actually want this Bill. I want to see this thing pass as soon as possible because I was just visualizing the old days and do you remember the old days when you heard the little bell ringing in the street and it was the ice cream truck or the *manapua* truck? Then, do you remember when the station wagons would pass and the trucks with the people yelling, "*Akule*"? I do not know if any of you remember that. I do. Everyone would run out in the streets and buy their *akule*. This is just an extension of that, giving them a place that they do not have to worry about State tickets, trespassing, and selling on private property or County property. This just provides an area where these business people can sell their products. Would it not be great that you can go to one place and buy your fresh Alaskan king crab? That was a joke. Councilmember Yukimura.

Councilmember Yukimura: I just wanted to ask the introducers of the Bill, whether you been in discussion with the Office of Economic Development because they are the ones who have to administer this? I see that the effective date of the Bill is one hundred eighty (180) days, which is good, which is the same thing we did when we added the value-added because they need time to get the regulations in place and to let everyone know what they are. Have you worked with them then?

Councilmember Kawakami: Yes. The Office of Economic Development has had this Bill and has known of the intent of the introduction of this Bill way in advance of today's meeting.

Councilmember Yukimura: And have you had discussions with them?

Councilmember Kawakami: We had discussions about it and so I am baffled as to the request for a deferral, but we will respect it, move it out two (2) weeks, and the world will keep turning.

Council Chair Rapozo: Literally. Councilmember Brun.

Councilmember Brun: I was wondering if we should have them come over, push this off until after something, and have them come over to ask them why? I am ready to move forward and we can have all of the questions. We have been discussing this for an hour already.

Council Chair Rapozo: I know.

Councilmember Brun: We might as well have them come here, ask them the questions, and move forward with this.

Council Chair Rapozo: We have discussed this for an hour with reasons why we should hold the discussion until the next one. It is killing me.

Councilmember Brun: Yes. So, should we have them come over and move to the next item; have them come over, discuss it, and move forward?

Council Chair Rapozo: I just heard Councilmember Kawakami say he is baffled with the deferral. I do not know. Councilmember Kaneshiro, do you have any idea why?

Councilmember Kaneshiro: I am not sure why they wanted to defer, but I know it is a Bill that will likely pass. But if they need a deferral, I figure we defer it, it will come back up, and we will deal with it then. There is no sense in taking two (2) hours to discuss a Bill that is just going to get deferred and come back up. It will come back up.

Council Chair Rapozo: I do not want to pass it out, set the public hearing, and then the changes are substantive that we have to redo it. Let us just defer it. Two (2) more weeks is not going to hurt anyone. Rather than have them come over and have another hour and a half discussion to defer, let us just defer it,

have them come back in two (2) weeks, and we will discuss it then. Councilmember Chock.

Councilmember Chock: I was going to ask, when fishermen sell their fish on the side of the road, do they have to get a peddlers license? Is it a State license? I was just curious about that. Does this mean that they would still have to go get that license?

Councilmember Kagawa: I do not know the answers to the peddler license, but I believe there are some that do not even have that.

Councilmember Chock: Oh. I was just curious.

Councilmember Kagawa: If you go historically, I think they just park their truck on the side of the road, put the sign, and open the cooler.

Councilmember Chock: If we can get away from that...

Council Chair Rapozo: Councilmember Brun is a peddler license holder.

Councilmember Brun: What happens with the fish is, if they are selling it whole, they are good with what they have. If they cut it, then they have to get a kitchen and everything else. So, a lot that you see on the side of the road are selling whole fish like the *akule* and whatnot, that is all whole because once you do that, you do not need it. But if you cut it up, then you need the whole kitchen, inspection, and you need everything else. That is the thing with fish once you cut it. Like smoked meat, I am not selling the whole pig. Do you know what I mean? I am cutting it up, so I have to get the whole kitchen and everything else. That is the same thing with fish. If not, they can just use their fishing license to sell it whole, but once they have touch the fish, then they have to get the whole kitchen and everything else.

Council Chair Rapozo: That makes sense. Councilmember Yukimura.

Councilmember Yukimura: Councilmember Brun's description of what is needed makes you begin to realize that it is quite a bit complicated when you are dealing with fresh fish or even raw meat.

(Councilmember Chock was noted as not present.)

Councilmember Yukimura: Because the Office of Economic Development is going to be the one that administers it, it may be simple to those who are already administering, but it is a new level of competency that is need by OED. Until recently, the Sunshine Markets were monitored by volunteers. I think in recent years, you now have a County employee who is regulating it, which is a good addition. You can see how there is going to need to be some revving up in capacity.

Council Chair Rapozo: Go ahead.

Councilmember Kaneshiro: I do not want to belabor this, but I have no doubt that OED can handle this. They do not just open the Sunshine Market and just say, "Anyone who wants to come today, just come and sell things." They pre-approve vendors and if the vendors are doing something questionable, then they go and double-check on the vendor, where they are getting their beef and where they are doing it. I think they are more than capable of doing it. I think it is just a good step. Again, I think they need this in order to be able to move forward with all of the protocols they have, which should be available already because people do it around the State and people already do it on Kaua'i. I think they are more than capable of handling it. It is just a matter of putting a checklist together of the things that they are going to require of these people, making sure they do it, get their approved vendor list, and that is who gets to be at the Sunshine Markets.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: Well, it is that pre-approval process that they will have to be doing that. If you have a lot of applications, they will have to go through that vetting process.

Council Chair Rapozo: That is for them to do. We just enable the legislation and they take care of all of that. I think the concept is great. It is long overdue and I think that if they are asking for the deferral, we will grant the deferral. I think if there was a Councilmember or Councilmembers that felt what they wanted more time, that would be a little bit of a different story. I think we talked about merits of moving it ahead. I think we need to pass this sooner than later this is what I am trying to say. But this is just the Communication. Is there anyone in the audience wishing to testify?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo:

Seeing none, the motion is to receive.

The motion to receive C 2018-186 for the record was then put, and unanimously carried (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative for the motion*).

Council Chair Rapozo:

Motion carried. Next item, please.

LEGAL DOCUMENTS:

C 2018-187 Communication (07/30/2018) from the Acting County Engineer, recommending Council approval of a Right-of-Entry Permit between the County of Kaua'i and the State of Hawai'i, Department of Land and Natural Resources (DLNR) and to indemnify the State DLNR, to allow for construction of the shared-use path between Elsie H. Wilcox Elementary School, the Kaua'i War Memorial Convention

Hall, and the Līhu'e Ball Park (Tax Map Key (TMK): (4) 3-6-003:021 & 22 (State-owned)).

- Right-of-Entry Permit (by letter dated April 5, 2018, addressed to Douglas Haigh, Chief of the Building Division, signed by Suzanne D. Case, Chairperson, Board of Land and Natural Resources Commission on Water Resource Management)

(Councilmember Chock was noted as present.)

Councilmember Yukimura moved to approve C 2018-187, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-187 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2018-188 Communication (08/10/2018) from the Acting County Engineer, recommending Council approval of a Right-of-Entry Agreement between the County of Kaua'i and the State of Hawai'i, Department of Transportation, on State lands situated at Tax Map Key (TMK) (4) 1-8-008:004 (por.) and (4) 1-8-008:076, Hanapēpē, Kaua'i, Hawai'i, to allow the County to install protective measures for the Salt Ponds in Hanapēpē and assist in preserving a clean environment for the cultural practice of salt making.

- Right-of-Entry Agreement

Councilmember Kagawa moved to approve C 2018-188, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Go ahead, Councilmember Yukimura.

Councilmember Yukimura: Is someone here to explain?

Council Chair Rapozo: I had expected someone to be here because—well, I want someone from Public Works. I understand what this legal document does, but what I want to know and I think we are just going to repost this as a new item in the Committee, I want to know what the plan for Salt Pond is. This grants us the approval so we can at least start in that direction. I do not have a problem with this. I think this is something that we have to pass, but I want the discussion to be a lot broader than just the legal document. I am going to ask that we probably

post this and before I go on, everything is going to be dependent on this hurricane as well. We do not know what is going to happen regarding future agendas. We will post it in the Committee next week, let us do it in the Public Works / Parks & Recreation Committee, and let us have the discussion. Oh, okay. September 5th Committee Meeting. We will do it in the Public Works / Parks & Recreation Committee. We will have a broader discussion on the Salt Pond plan because I think that is what we have to work on. Councilmember Kagawa.

Councilmember Kagawa: I want to echo that idea. I think part of me says maybe we should wait because I think should Parks come up with this elaborate plan at this point as Mayor Carvalho is reaching the end of his term, how much of that bold idea is really going to come to fruition, where as if we do not do anything, just wait, and live with the problems that exist. So yes, let us put something in. It is always nice to have a nice, elaborate plan that carries over because if it is a good plan, then it will survival, right? We just had a complaint about the Kaua'i Humane Society where they say there are drug addicts and whatnot living there. The thing is, I think the Kaua'i Humane Society is tied into the Salt Pond Park, so let us have a communication that discusses all of these things about the salt beds, the backroad, as well as the frontage, and we can see what the plan is for Salt Pond. We can get updates on the sewer line and everything from the current Administration as the next Administration comes in to take over. I think it is a good idea. Let us put it on and I accept having that in my Committee.

Council Chair Rapozo: I think it is important we identify all of the issues—you know Councilmember Kagawa, you have seen the E-mails. I think many of us have gotten the E-mails about what is going on out there. I think it is just time we identify and define what the issues are and what plan is to resolve it. I think that is important. Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. I, too, agree looking at the bigger picture, holistically, about the future of this area is really important. I know that there has been talks for many years. The specific reason for the right-of-entry in this instance or for this request has to do with a series of rocks that have been illegally put there in the way. I would just say that I support moving it to the Committee to having that broader discussion, I also would like to see the right-of-entry moved forward as soon as possible for the removal or movement of the rocks prior to the big waves coming in for the season because I think that is what the issue has been for them, that the sand has been depleted. If we can do both at the same time, that is kind of where I am at.

Council Chair Rapozo: My suggestion is we pass the right-of-entry today.

Councilmember Chock: Okay.

Council Chair Rapozo: I am not, for a second, trying to postpone this. That is why I said this needs to be done today.

Councilmember Chock: Thank you.

Council Chair Rapozo: We will repost a new item so we can have that broader discussion. Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. From the discussion that I have had with Public Works and also the salt makers, what they want to see is part of what you said, getting that right-of-entry to move those boulders and to really protect that area from vehicular access. People driving on the beach is a type of behavior that everyone is not going to be happy with, but from what we understand, it is impacting the salt makers and their ability to make that *pa'akai* that we all enjoy. The other thing that they have been talking about is closing down that road that goes right between the salt patches, because that is also contributing to the detriment of that very special place of *wahi pana*. They have also asked that the helicopter companies be respectful. We continue to hear complaints that they are not willing to work together. I am not sure if this new company is willing to work with us. The other discussion that I heard is that there is a possible stewardship agreement to give at least some authority to the salt makers out there to be able to make some decisions. Those are all things that I have heard that are planned and those are things that I hope come to fruition because really, that is what the salt makers have been asking for many years now. It has been the same "ask" year after year and finally, we are going to be able to get that right-of-entry to move on these things. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I am so glad that we will be passing this and I want to be clear exactly what this right-of-entry will be doing. Will it be removing the rocks at this point that are causing people to drive on the beach?

Council Chair Rapozo: Mauna Kea. With that, I will suspend the rules. It is a legal document. Let us have Mauna Kea explain it. That is the understanding that I had, was that they needed this to deal with the rocks. I am not sure.

There being no objections, the rules were suspended.

Councilmember Yukimura: It would be helpful to have a diagram, or is there? Okay.

Council Chair Rapozo: Go ahead.

MAUNA KEA TRASK, County Attorney: For the record, Mauna Kea Trask, County Attorney. What this does is, all of the actions of the State and County are trying to take together are to meet the needs of the salt makers, like the body has talked about. This issue right here in order to move the rocks around, is actually to protect the salt ponds themselves to prevent people from driving in and around that area on the airport side because that causes erosion and dust and they do not like the traffic because of its proximity to the salt makers. So, you need a permit in order to move those things. The right-of-entry (ROE) is for Public Works to go on to get the necessary permits to do the work for the State. The jurisdictional issues are really

mixed over there. The salt pans themselves are historical and cultural sites. They cannot be disturbed. Because they are cultural, there is a layer of Department of Land and Natural Resources (DLNR), State Historic Preservation Division that kind of oversees the area. The group themselves are self-regulating. They are not formally comprised of anything. They are the *'ohana* who have been there forever, and so a lot of deference is given to them to how they manage that area, but the land itself is contained within property that is being held by the State Department of Transportation, Airports Division. There are a bunch of differences or different agencies that you have to work through, but ultimately, this first step is to protect the salt pans at the request of salt makers to decrease traffic in and around the area that threatens the integrity of the product and then ultimately, the goal is—there has been discussion of stewardship agreements to really bring in that area, opening it up, and allowing more formal type recognized controls to the salt makers so that they may take care of it in best way that they see fit because obviously, the County and State are in no position to tell them how to prosecute their cultural practices.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: Thank you, Mauna Kea. One of the things I heard that was attributing to the delay was this hydrological study that was part of what the salt makers had gotten some funding for. I do not think it is complete and I was just wondering if you had any information about it. If not, that is something that I would like to make a request now to be part of what goes to discussion in Committee.

Mr. Trask: I do not, and there are a lot of component parts over there. But again, you are going to want to be aware that it is all relevant and all in the area, and you do not want to necessarily conflate this action with any other because you want to avoid lack of movement for cautious.

Council Chair Rapozo: Are there any other questions for Mauna Kea?
Seeing none, thank you very much.

Mr. Trask:

Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any further discussion? Seeing none,
the motion is to approve.

The motion to approve C 2018-188 was then put, and unanimously carried.

Council Chair Rapozo:

Motion carried. Next item, please.

CLAIM:

C 2018-189 Communication (08/15/2018) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Heather Barth on

behalf of Mary K. Offley, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kagawa moved to refer C 2018-189 to the Office of the County Attorney for disposition and/or report back to the Council, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2018-189 to the Office of the County Attorney for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

(Councilmember Kawakami was noted as recused.)

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2018-08) submitted by the Budget & Finance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2687 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, SECTION 8-2.1(A) AND SECTION 8-4.2(A), AND CHAPTER 10, SECTION 10-5A.7(A), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE AND LIHU'E TOWN CORE URBAN DESIGN DISTRICT,”

Councilmember Kaneshiro moved for approval of the report, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 6:0:0:1 *(Councilmember Kawakami was recused).*

Council Chair Rapozo: Motion carried. Next item.

(Councilmember Kawakami was noted as present.)

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2018-29) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2715 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2018-842, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2018 THROUGH JUNE 30, 2019, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND HIGHWAY FUND-CIP (*Salt Pond Wastewater Improvements and Hanapēpē Moi Road Pedestrian Safety Improvement Projects - \$765,000.00*),”

A report (No. CR-BF 2018-30) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2716 – A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-6.4(C) AND SECTION 5A-11A.1 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Licensed Day Care Provider Homestead Tax Classification*),”

Councilmember Chock moved for approval of the reports, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the reports was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2018-04) submitted by the Committee of the Whole, recommending that the following be Received for the Record:

“COW 2018-02 Communication (06/27/2018) from the Mayor, requesting agenda time for a briefing from Smith Dawson & Andrews, Inc., Washington, D.C. consultants, to provide a recap of the services and activities they provided to the County during Fiscal Year 2017-2018 as part of their professional services contract,”

Councilmember Brun moved for approval of the report, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

(Councilmember Kaneshiro was noted as recused.)

RESOLUTIONS:

Resolution No. 2018-27 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Elesther Calipjo – Business*): Councilmember Brun moved for adoption of Resolution No. 2018-27, seconded by Councilmember Kagawa.

Council Chair Rapozo: Is there any discussion? Councilmember Yukimura.

Councilmember Yukimura: There was a letter of concern on the agenda.

Council Chair Rapozo: On the agenda?

Councilmember Yukimura: Oh, maybe it was not. Maybe it was just in our E-mails?

Councilmember Chock: Council Chair Rapozo.

Council Chair Rapozo: Go ahead.

Councilmember Chock: I can respond. If you are referring to the E-mail, I think that was received in question after confirming, I believe that there was no need for a permit on the proposed complaint.

Councilmember Yukimura: So you did confirm that?

Councilmember Chock: Yes.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Are you are talking about the E-mail?

Councilmember Yukimura: Yes.

Council Chair Rapozo: I did have Staff as well as the Office of the County Attorney check. There was a concern, an E-mail, from an anonymous—not anonymous, I guess you can call it. It was regarding concerns about a possible grading violation by the nominee, but the County Attorney has verified that there are no violations and that there is an open stockpiling permit that is renewed annually. So as far as any kind of illegal activity, it is just non-existent based on what we just got confirmed about fifteen (15) minutes ago from the County Attorney.

Councilmember Yukimura: Okay. Thank you very much.

Council Chair Rapozo: Is there any further discussion? The motion is to approve.

Council Chair Rapozo: Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No. 2018-27 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Yukimura,	
	Kawakami, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kaneshiro	TOTAL – 1.

Mr. Sato: Six (6) ayes.

Council Chair Rapozo: Thank you. Can we get Councilmember Kaneshiro back in and read the next item, please?

Resolution No. 2018-28 – RESOLUTION CONFIRMING COUNCIL APPOINTMENT TO THE KAUAI HISTORIC PRESERVATION REVIEW COMMISSION (*Aubrey Summers – Architecture*): Councilmember Yukimura moved for adoption of Resolution No. 2018-28, seconded by Councilmember Kagawa.

(Councilmember Kaneshiro was noted as present.)

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call please.

The motion for adoption of Resolution No. 2018-28 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Mr. Sato: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

(Councilmember Kagawa was noted as not present.)

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2719) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO AGRICULTURE DISTRICTS (ZA-2014-4) *(County of Kaua'i Planning Department, Applicant)*: Councilmember Chock moved for passage of Proposed Draft Bill (No. 2719) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 26, 2018, and referred to the Planning Committee, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion? Councilmember Yukimura.

Councilmember Yukimura: Can we get a briefing from the Planning Department?

Council Chair Rapozo: Sure. With that, I will suspend the rules. Planning.

There being no objections, the rules were suspended.

KA'ĀINA S. HULL, Deputy Planning Director: Good morning, Council Chair Rapozo and Members of the Council.

Council Chair Rapozo: Good morning.

Councilmember Yukimura: Good morning.

Mr. Hull: Deputy Director Ka'aina Hull, for the record, with Planner Chance Bukoski to my right. The Proposed Draft Bill is a series of amendments to the agricultural section of the Comprehensive Zoning Ordinance (CZO). You can kind of essentially couch it under three (3) essential proposals, the first being that it essentially bifurcates the current Agricultural zoning district into two (2) distinct zoning districts: Agriculture 1 or AG1 and Agriculture 2 or AG2. AG1 being those lands that have been designated through the State Land Use Commission process as Important Agricultural Lands (IAL) and AG2 essentially being all other agricultural lands. The proposal also does look at restricting those IAL designated lands to one (1) dwelling unit per lot, but it does not look at restricting further any residential dwellings on AG2. The second area is actually a bifurcation of the Residential District to recognize that under the State Land Use districting, you have a rural section that under Hawai'i Revised Statutes (HRS) Section 205 specifically calls out as a district that is for residential use in conjunction with small farms. Under the current zoning ordinance that has been in place since the 1970s, there are restrictions on doing agricultural activities in all Residential zoning districts, which runs to a certain degree, counter to the purpose of the Rural district. So we have essentially called out R-1/R-2 Residential zoning district, which are those lands located on the State Land Use Rural district, to specifically allow agricultural activities on those lands in conjunction with residential unit as well. Then lastly, there is a new provision to outright permit agricultural produce stands on agricultural lands for the products or produce that is grown on-site as an outright permitted use because currently under the Code, there are no actual outright retail permitted uses on agricultural lands, so any type of retail, including technically a small farm stand, has to get a use permit. This is recognizing that these farmers should be able to outright sell their produce on the property that they are growing. That is essentially the breakdown in a nutshell. Do you folks have any questions?

Council Chair Rapozo: Real quick, is AG2 basically what is in the statute now?

Mr. Hull: Which statute?

Council Chair Rapozo: I mean not the statute, but the Code?

Mr. Hull: Yes. It is essentially...

Council Chair Rapozo: So right now, it encompasses IAL and non-IAL?

Mr. Hull: Correct.

Council Chair Rapozo: And they are governed by that (a), (b), and (c), what used to be (1), (2), and (3)?

Mr. Hull: Correct.

Council Chair Rapozo: So we are just taking out IAL now and saying, "Hey, if you are on IAL, you can only have one (1) residence"?

Mr. Hull: Per lot.

Council Chair Rapozo: Per lot?

Mr. Hull: Correct.

Council Chair Rapozo: Okay. Councilmember Chock.

Councilmember Chock: Thank you, Council Chair Rapozo. The bifurcation on trying to supporting agricultural activity and the permitting for produce, are those forthcoming initiatives?

Mr. Hull: It is in the Bill.

Councilmember Chock: It is part of this? So it is not in addition to?

Mr. Hull: That is part of the package that you folks have right now.

Councilmember Chock: I am trying to get a sense of what we are trying to accomplish holistically for this package and maybe you can answer it. What are we trying to accomplish here, holistically, for agriculture? Is it to just increase agriculture activity, is it to create opportunity for housing or actually decrease housing opportunities for IAL, and how does that play into the bigger picture of what the goal is for agriculture?

Mr. Hull: Essentially, there are two (2) functions in here. One, to help facilitate agricultural sales and agricultural productions on lands in the Rural and Agricultural districts here on Kaua'i. That is where the Table of Uses, where you have the whole series of uses that are now permitted on Rural lands as well as Agricultural lands. Second, is recognizing that the Hawai'i State Legislature and State Land Use Commission have designated certain areas as Important Agricultural Lands, but still, the regulations at State-level are still relatively open-ended, I will say. It is very hard and fast. Once these lands are designated Important Agricultural Lands for all intents and purposes, they can never be put in Urban designation or Rural designation. It will stay in Agricultural designation at the State-level, but there is no real further clarification as protections or regulations as to how the IAL will be essentially administered or reviewed. It is so setting the platform for the County to essentially dive deeper into the review and regulation of Important Agricultural Lands and it sets one (1) possible measure, the restriction on residential dwellings, but it leaves open for future discussions should there be a desire to set further policies in the protection of Important Agricultural Lands. But no further policies are being proposed at this point. It is just setting the two (2) platforms for Agriculture and then one (1) recommending restricting density in the IAL.

Councilmember Chock: Okay. Then for the bifurcation piece, you referred to, I guess, trying to honor the Rural district by including agricultural activity in residential.

Mr. Hull: Correct.

Councilmember Chock: But my understanding is that we do not actually have a Rural designation. Is that correct?

Mr. Hull: No, we do.

Councilmember Chock: Oh, okay. Is that on a County-level or is that on a State-level?

Mr. Hull: Technically, the Rural designation is at the State-level. Under the State Land Use districts, you have four (4) land use districts.

Councilmember Chock: Right.

Mr. Hull: One being Conservation and that is all in the State's purview.

(Councilmember Kagawa was noted as present.)

Mr. Hull: Then you have the Agriculture districts, which is under both the State and the County's purview; then you have the Urban district, which is pretty much where the County has the bulk of the purview and where we put our Commercial, Residential, and Industrial; and then lastly we have our Rural designations. We do not have much on Kaua'i, but we have some. Rural designations under Hawai'i Revised Statutes is set up to essentially be a half-acre or no smaller than half-acre lots that are for the purposes of providing residential dwellings in conjunction with small farms. Our Code has actually made it particularly hard for any property owner to actually farm those properties. Now, we are not out there actively shutting down people that are farming on their rural lands, but if we get a complaint that say someone is raising goats on their rural land, technically, without a use permit, that is a violation.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: In regards to the products being raised on the property and the State zoning Rural activity, can you point out where it is in here?

Mr. Hull: Which one?

Councilmember Kaneshiro: First, the products raised and grown, I do not see the change, underline, or where it is.

Mr. Hull: So, you would go to—for the farm stand you are talking about?

Councilmember Kaneshiro: Yes, for the farm stand.

Mr. Hull: It is on page 9 of the Proposed Draft Bill, which is a portion of the Table of Uses. If you look at the third item, which is "Agricultural Produce stand provided that said stand shall not exceed five hundred (500) square feet."

Councilmember Kaneshiro: So the "P₅" is what is added?

Mr. Hull: The "P" list is essentially denotes that outright permitted. You can get it with a Class I Zoning Permit over-the-counter. A "U" denotes a Use Permit, which requires Planning Commission review. The "5" footnote is essentially clarified at the end of the table and states, "Only products raised or grown on the property."

Councilmember Kaneshiro: Okay. Was this line item there before?

Mr. Hull: It does not exist.

Councilmember Kaneshiro: Is it a new line item?

Mr. Hull: It is a new line item.

Councilmember Yukimura: It should be underlined.

Councilmember Kaneshiro: Yes. I guess, just little details. For example, usually a new line is underlined, so that is why I could not find it.

Mr. Hull: Yes. In working with Council Services, because there is a whole lot of underlining quite honestly, and with the new districts, it was like I said, in discussions with Council Services, it was felt by both as us as well as Council Services to present a clearer picture to just erase or delete the whole table and reset up a brand-new table, essentially.

Councilmember Kaneshiro: It is a brand-new table, but the only changes is this P₅ and another one for the rural activity also?

Mr. Hull: No. The Rural, if you are on page 9 up on the first column, it says, "R-1 to R-2." Those are essentially Rural lands. The Table of Uses previously, does not have R-1 to R-2. It is just straight Residential—well, R-1 to R-6 and R-10 to R-20. We are calling out the R-1 to R-2 and then if you look below, now you have things like "Agriculture, Diversified" and "Agriculture, Specialized" which have "P" now, and those denote that are now permitted in those R-1/R-2 districts.

Council Chair Rapozo: Ka'āina, can you make a chart of all of the changes?

Mr. Hull: Yes.

Council Chair Rapozo: Because I do not know where to start looking.

Mr. Hull: Okay.

Council Chair Rapozo: I only looked at—actually, I did not even look at the Agriculture one. I looked at “Retail Sales” and it is showing that with Retail Sales, you have to get a Use Permit, but you can only sell products. That is interesting because you are allowing the agricultural—it is permitted on the Agriculture for an agriculture stand.

Mr. Hull: Yes.

Council Chair Rapozo: Which is retail, but then on “Retail Sales,” they have to get a Use Permit.

Mr. Hull: Yes. The straight up agricultural stand is essentially denoting with the “5” footnote that it is products grown on property, but say if you want to sell just “Retail Sales” themselves, which would not be...

Council Chair Rapozo: No, but on your chart, it says, “U₅,” which the “5” is “Only products raised or grown on the property.” So you are limiting. You have to get a Use Permit the same thing the person is going to do to put up an agricultural stand. I am not sure if that is an error.

Mr. Hull: I have to double-check on that.

Council Chair Rapozo: Yes, because retail, you are talking about T-shirts and things like that.

Mr. Hull: Right, yes.

Council Chair Rapozo: Do you know what I am saying?

Mr. Hull: Exactly.

Council Chair Rapozo: It is the same—should be the same as the stand.

Mr. Hull: Yes. We can clarify that.

Council Chair Rapozo: We need a chart to show every single change in every single district for every single activity. If there is new activities, we need to see that because there is no way we will know what is new.

Mr. Hull: Yes.

Council Chair Rapozo: There is definitely no way the public is going to know what is new. Just clarify that because I agree with the “5” footnote. I believe that anything we are going to sell needs to come from that property. They cannot ship in wholesale T-shirts, hats, and hoodies. No. The other question on the “Retail Sales,” I noticed that AG1 is just blank.

Mr. Hull: Correct.

Council Chair Rapozo: I do not know if that ties into what you were answering Councilmember Chock's question earlier, but that was conscious effort to leave that alone for now?

Mr. Hull: Correct. It was, I will say, debated for several months at the Planning Department-level whether or not we should be having the "U" or the "P" for Retail Sales on AG1. Ultimately, the policy decision that came out was that it should not be occurring on AG1, period.

Council Chair Rapozo: But that is what we have designated as the best agricultural lands on the island.

Mr. Hull: Hence the desire not to look at allowing Retail Sales, per se, on that.

Council Chair Rapozo: Okay. We can have that discussion. I guess I just disagree with that concept. I think if you remove Retail Sales altogether from Agriculture and just allow them to do the stand for the products that they are raising and growing, I think that is what they are supposed to. Anyway, if we can get that chart, I would really appreciate that.

Councilmember Kaneshiro: I mean, it was clear on the density thing and then all of these other things, I could not find it because we have this big table. I do not know what is new. Obviously, this entire line of R-1 to R-2 Rural is a new line. I do not know how any of these items are treated previously. I had a difficult time. I clearly saw the density one, but the Rural activity and products grown and raised, I did not know where that was coming from.

Council Chair Rapozo: Right, and I just noticed "Restaurants and food services," too. You can get a restaurant on an Agriculture. We are going way beyond, I think. That is why we need the chart to see the additions because now I have to look at each line. I thought we were just talking about the fruit stands, but now, we are talking about putting restaurants on agricultural lands. I have a little bit of an issue with that, in fact, a big issue with that.

Mr. Hull: To that point, Council Chair Rapozo, that one was discussed. That one also has the "5" to allow for restaurant usage should someone want to set up a food truck selling their products that they grow on-site as actual restaurant food. This can help accommodate the farmers getting more sales, essentially. But ultimately, it is a policy discussion and one that we have had heavily over past two (2) or three (3) years, and whether or not it is appropriate, I think it is going to be a very engaging discussion with you folks at the Committee-level.

Council Chair Rapozo: Yes, but we need to know the difference.

Mr. Hull: Which is the exact ones, yes.

Council Chair Rapozo: Each one. Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. You bring up a good point. As far as the restaurants, I am open to the idea because there are a lot of models. Waianae has Kahumana Organic & Cafe and it sits on agricultural land. It is a farm. Actually, they are employing people that are rehabilitating themselves. It is a great model to follow. It is not like it is something sinister to have a restaurant. We are talking farm-to-table, supporting local agriculture, and allowing farmers to profit. It is very hard to profit nowadays on farming and finding labor, but I can tell you that when you take that model with the trend of this farm-to-table movement and chefs now focusing on buying local, it is a great concept of agriculture. I am open to the idea. Of course it is going to be a case-by-case process as it goes to the permitting, but it is a great concept that is working all over the place.

Council Chair Rapozo: Thank you. That is true. I just want to make sure. What I do not want to see is we get into this discussion or argument how much? Is it fifty percent (50%) that it has to come from? I want to fly in oysters, but we going to be using the vegetables and fruits. That is where I am concerned when you are going to start using this. I understand case-by-case, Use Permit required. I would assume that would be all dealt with. I just want to make sure that we do not have all of these restaurants that are using their green onions.

Mr. Hull: Yes.

Council Chair Rapozo: Are there any other questions?
Councilmember Kagawa.

Councilmember Kagawa: Kaʻāina, where did this Bill come from? Is this a Kauaʻi County push?

Mr. Hull: It essentially came from the Planning Department.

Councilmember Kagawa: It is not a State wide movement?

Mr. Hull: No. The Planning Department has been having meetings over this particular issue as well as other comprehensive updates to other sections of the Code for the past three (3) years.

Councilmember Kagawa: And it is to meet the purpose to encourage agricultural production and to discourage development of gentlemen estates?

Mr. Hull: Yes.

Councilmember Kagawa: That is why we did this. Have we had—like every good idea, you have unintended consequences. Have we had discussions with the big cattle industry people maybe like Bobby Farias or Dwayne Shimogawa just to say, “Hey, this is what we are doing,” because I think I just want to avoid having

those people say, "Wow, you passed this and you did not even let us know," because I think they are the stakeholders, right?

Mr. Hull: Yes. I believe we submitted it to the Mayor's Agricultural Committee that has several ranchers.

Councilmember Kagawa: The Mayor has an Agricultural Committee?

Mr. Hull: Yes, and it was submitted several years ago, about two (2) or three (3) years ago.

Councilmember Kagawa: Okay.

Mr. Hull: So it went through that process, I believe, and we did not get many comments out of it.

Councilmember Kagawa: So you folks basically do not really foresee any negative impact on those people?

Mr. Hull: On the cattlemen themselves?

Councilmember Kagawa: Like to warrant telling them, "Hey, this Bill might affect you."

Mr. Hull: On the actual ranching activities itself, no.

Councilmember Kagawa: Okay.

Mr. Hull: On some property owners that have IAL lands, yes, we reached out to them because we noticed that there was nothing on the record from any of them have that have IAL. We did reach out to them and are in discussions. At least one (1) of them actually came back and said, "I do not have any problems with it."

Councilmember Kagawa: Okay.

Mr. Hull: Another one came back and said, "We could have some issues because you are restricting our current entitlements," so they wanted to chew on it a little bit longer, I think, and will probably be testifying at the Committee-level.

Councilmember Kagawa: Alright. Thank you.

Council Chair Rapozo: Are there any other questions?
Councilmember Yukimura.

Councilmember Yukimura: Yes. As the purpose of this Bill, you say that it is to prevent gentlemen estates, but you are having AG2 be the same as status quo,

which is gentlemen estates, so I do not see how this Bill is getting us to our goal of not having gentlemen estates.

Mr. Hull: Well, that was more specifically to preventing gentlemen estates on IALs because right now, technically, we have no—you are correct, Councilmember Yukimura. To a certain degree, the ship has sailed on gentlemen estates on agricultural lands. The vast majority are not producing actual agricultural activity on their lands.

(Councilmember Kawakami was noted as not present.)

Mr. Hull: That is really a function of State law in which they have the ability to put a house and that house has to be in conjunction with a farm, but under State law, currently a farm you can—and they do come to the Planning Department to sign the Farm Dwelling Agreement with a single papaya on that plan. Under State law, that qualifies a farm and we have to, reluctantly shaking our heads, sign off on that Farm Dwelling Agreement.

Councilmember Yukimura: Why is the Planning Department not lobbying for changes to State law?

Mr. Hull: If I could finish my statement,
Councilmember Yukimura.

Councilmember Yukimura: Go ahead.

Council Chair Rapozo: Go ahead.

Mr. Hull: So having seen it gone that way and the fact that those lands are designated IAL right now do not have residential dwellings on them, we are stating, “Yes, the ship, to a certain degree, has sailed on regular agricultural lands, but if we can prevent that type of gentlemen estate development on IAL, this is one (1) way of doing it,” just straight-out restricting density.

Councilmember Yukimura: Do you know how many acres of all of our agricultural land is in IAL and how many is in what you are proposing to be AG2?

Mr. Hull: We can get that number for you and we have that data, but I do not have it off the top of my head.

Councilmember Yukimura: It seems to me that information should be in the Director’s Report.

Mr. Hull: I can go through it, but I do not have it off the top of my head.

Councilmember Yukimura: Did it not go through the Planning Commission? Did they not have that information? You are talking about different

regulations on AG1 and AG2 and we do not even know how many acres are being effected by your proposal.

Mr. Hull: I am not saying it did not go to the Planning Commission. I am just saying that I do not have it off the top of my head.

Council Chair Rapozo: We will request a copy of the report.

Councilmember Yukimura: We have the copy.

Council Chair Rapozo: Do we have Director's Report?

Councilmember Yukimura: It was transmitted to us.

Council Chair Rapozo: Okay. Again, this is just first reading.

(Councilmember Kawakami was noted as present.)

Mr. Hull: I am sorry. I have the copy here and it is one hundred sixty (160) pages. I can go through it, but I do not have it right now.

Council Chair Rapozo: No, we are not going to do that today. I think this will be an opportunity, I think Councilmember Yukimura is right as far as an opportunity to control gentlemen estates. This is an opportunity that this Council will have to further define or restrict gentlemen estates with this Bill.

Mr. Hull: Yes.

Council Chair Rapozo: I think it is a great opportunity for us to really clamp down on the gentlemen estates, so what is here is great. Now we have the vehicle that we can now say what we want. The Farm Dwelling Agreement, to me, Ka'āina, I am not sure how we cannot enforce that. For the life of me, I cannot understanding why we cannot enforce it.

Mr. Hull: That was to my point, Council Chair Rapozo, that if they can show us a papaya tree, that Farm Dwelling Agreement is legal.

Council Chair Rapozo: No. The Farm Dwelling Agreement, which I am very familiar with, says they have to derive the majority of their income from the farming activity. One (1) papaya is not the majority of their income.

Mr. Hull: I can research that.

Council Chair Rapozo: I can tell you that we have had that discussion so many times on this floor and it gets recorded in the Bureau of Conveyances. It is an agreement between the owner and the County. Regardless of what else is out there, you make an agreement and it is very clear what it says. I do not know. It has to be going on ten (10) years now that I have been saying, "Why have we not enforced it on those flagrant violators," and we just do not. It says that you have to derive most

or your—you agree and if not, there are ramifications that are explained in there. We just have never gone after any one of these people, but this will be our opportunity, I think, as Councilmember Yukimura is saying, to further define these gentlemen estates. Councilmember Kaneshiro.

Councilmember Kaneshiro: I do not with a want to go down a slippery slope, but I have the same concerns as Councilmember Yukimura. Why are we going to restrict gentlemen estates on IAL, which is already restricted and not on regular agricultural land? For me, the question is, what is considered a “gentleman estate,” because even if we reduce the density on an IAL to one (1), then does that mean that they can only build one (1) gentleman estate? I guess I need to know what the definition of a “gentleman estate” is. Are we talking about people that are going to build a house that is ten million dollars (\$10,000,000)? Why would we prevent the additional four (4) densities from building regular houses? I do not know what a gentleman estate is, I guess. If you could tell me what a gentleman estate is, then let us maybe look at reducing size or something like that. But I know what a gentleman estate is in general. All I know is if you have an agricultural parcel and you have so many acres, then the maximum density you have is five (5) units. What kind of houses they build on it, I guess, that is where you tack on that we do not want to see a lot with a ten million dollar (\$10,000,000) house on agricultural land. Whatever. But to just say, “Oh, no. Let us reduce it to one (1) so they can only build one (1) gentleman estate,” I do not really understand it. Then in regards to the, and I am not on the Planning Committee, so I do not get to vote on it, but these are just the same questions that I have, too. As far as the fruit stands, I do not know what one (1) parcel means. Do you have to grow it and sell it on one (1) parcel? I know for Grove Farm, we have small Tax Map Keys (TMKs), big TMKs, and large TMKs. We have farmers that are spread out throughout all of the TMKs. We have always talked about getting a Use Permit for them to do a farm stand where everyone in that area sells at that one (1) farm stand. I do not know if doing this would say, “Only if you are on this one TMK parcel, then you can sell it at that farm stand.” It is all contiguous farmland. Some of these tenants...the TMK line splits their property and they are farming on both sides. It is something to consider as it goes to Committee.

Mr. Hull: To that point, Councilmember Kaneshiro, the use of the parcel, the term “parcel” is very specific because the definition of “parcel” under the County Code is one (1) lot or more than one (1) lot contiguous to each other. So, if you have multiple lots of record, but they are contiguous, they constitute one (1) parcel. It was specifically to address that issue.

Councilmember Kaneshiro: Okay. Thank you. But again, you could have a farmer that farms on one side of the road and then he has another lease on the other side of the road that are right next to each other, but then he has to do another fruit stand on the other side.

Mr. Hull: It gets meaty and getting into the regulation of where these products come from, it is not an easy task. But the purpose of it ultimately, is right now, every single farm stand, no matter what, a little kid selling lemonade on the side of the road technically under the County Kaua'i County Code, needs a Use Permit. All we are saying is, from the kid grabbing lemons from the

lemon tree to selling lemonade to the farmer producing, we should at least try to free it up a little bit.

Councilmember Kaneshiro: Yes. I think for me, the only scary part is we just do not want them shipping in produce and then trying to sell it at their farm stand.

Mr. Hull: Yes.

Councilmember Kaneshiro: The intent is to have them sell things that are grown here. I do not know. Those are just some of my concerns as far as not everything is all a farmer is in one (1) area. You might have a farmer that farms in Līhu'e and Moloa'a, can he bring his produce from Moloa'a to Līhu'e and sell it at the farm stand? Those are things...I know for a fact that we have farmers that have land in Moloa'a also. So, do they have to restrict their produce there from Līhu'e? Just some things to consider.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: How is it that we are restricted by the State's definition of "farm dwelling" because as Council Chair Rapozo pointed out, it is an agreement between it the County and the landowner?

Mr. Hull: And I will have to do some more research on that specific Farm Dwelling Agreement document. My statement was to the point that under the State definition of "farm," there is no number of fifty (50) trees or sixty (60) head of cattle. There are no numbers.

Councilmember Yukimura: Is it not true that the County can have a stricter definition?

Mr. Hull: Absolutely.

Councilmember Yukimura: Well, then why are we not doing it?

Mr. Hull: In discussions with farmers, and we went through great lengths to go over, okay, let us start defining it more and restricting it so that we can ensure that gentlemen estates or people living on agricultural land were not taking advantage of the State's very lax definition of "agriculture," and we got into the State problem. State Legislators have told us time and time again, "We can never to come to full consensus and agreement of what 'farming' is." There is no one (1) true definition and absent that, where we can weed out everyone, we are stuck with a very open definition of "farm." I am not saying this body cannot do it and definitely, that is what the role of this body is, to tackle those issues, but I am just saying that it was not for a lack of trying that the Department did not forward to you folks a stricter definition of "agriculture." We spent several years discussing this with farmers, ad nauseam, and there was no hunkering down of the definition that everyone could agree on, hence, here we are.

Councilmember Yukimura: Have you explored what other jurisdictions around the Country, how they are defining "farm dwelling" and how they are...

Mr. Hull: We have looked at other ways of defining "farm dwelling" and again, Councilmember Yukimura, we could not...

Councilmember Yukimura: There is nothing?

Mr. Hull: I did not say there is nothing. I said we could not come to a consensus.

Councilmember Yukimura: And Planning Department needs one hundred percent (100%) consensus in order to use professional planning proposals?

Council Chair Rapozo: Councilmember Yukimura, that is not a fair question for him. He just said they could not reach a consensus. He cannot answer for the Planning Department.

Councilmember Yukimura: I am sorry. He is the Deputy Director of the Planning Department.

Council Chair Rapozo: Understood, but he just said they could not come to a consensus.

Councilmember Yukimura: And I am asking, is that your basis of decision-making, that you have to get one hundred percent (100%) consensus or you are not going propose something?

Mr. Hull: No.

Councilmember Yukimura: That is good for planning and for the island?

Mr. Hull: No, I am not saying that. We did not get enough consensus with the various experts and farmers that we put in the room to feel comfortable moving forward to this body with a definition that restricted "farming." We could not. Now...

Council Chair Rapozo: Okay, good. Do you have another question? We are not going to debate that.

Councilmember Yukimura: Yes. What about the definition that we are using for "farmworker housing," our farmworker housing law?

Mr. Hull: That was debated, ad nauseam, as to whether or not we should impose on every single individual on agricultural lands to have a thirty-five thousand dollar (\$35,000) income requirement.

Councilmember Yukimura: Of gross income?

Mr. Hull: And ultimately, it was decided, no.

Councilmember Yukimura: And so...

Mr. Hull: But if you would like to propose that as a Councilmember that every single agricultural dwelling...

Council Chair Rapozo: I was just going to say, nothing prohibits any one of us from proposing what you believe is the right thing to do.

Councilmember Yukimura: Well, I just...

Council Chair Rapozo: You can introduce a bill.

Councilmember Yukimura: That is fine, but I am just asking Planning about its process because we do rely on Planning as the experts. When a bill comes to us, we want the best work possible presented to us because I do not think we should have to do the work that the Planning should do.

Council Chair Rapozo: That is why we are here. They have provided what they believe is the best bill and we have the ability to change it, and that is how this process works. I do not want to see a debate as to why and what the philosophy was. He said it more than once, they could not reach consensus to the level where they were comfortable sending it to us. End of story.

Councilmember Yukimura: Okay. So it is not State law that is preventing you from doing it?

Mr. Hull: No.

Councilmember Yukimura: It is...

Council Chair Rapozo: It is the political will. That is what it is. We have an ability to exercise our political will and do it. That is how it works.

Councilmember Yukimura: Okay. I am just wanting to understand their basis of proposal.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Council Chair Rapozo. It is not necessarily Planning not being able to come up with a consensus, it is farmers themselves, the very people that are experts at growing vegetables, fruits, and raising livestock and fish. When you ask them, "What is the definition of 'bona fide agriculture,'" it is hard to get a consensus. There are people out there that have orchards that are not having any income for years because it takes a while for those trees to be able to fruit. It is difficult. It is like "good luck." It has been tried over and over again, we have the Farm Bureau, who is challenged with defining "bona fide agriculture," and it is not as easy as it sounds. That thirty-five thousand

dollar (\$35,000) requirement has been talked about as being very prohibitive from bona fide farmers, in my opinion, in getting farmworker housing up and going. So it may sound easy to put a definition on "farming," but it is very complex. It is not as simple as it seems. It is not just Planning that cannot get a majority consensus. It is farmers themselves. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Well, I can tell you that I planted my mango tree five (5) years ago and I just got mangos this year. It just gave me a different perspective. Let us say I get a farm, I get the land, and I plant my orchard of mango trees. I will not have income for five (5) years. I am only going to have expense, right, of whatever I have to do to raise the tree? Again, by no means, I am not a farmer, but my point is that and it is kind of tagging on to what Councilmember Kawakami just said, is that in some years, they may not derive income. Wind, rain, and storms. I do not know how you define it. I do not know. Councilmember Kaneshiro.

Councilmember Kaneshiro: I guess to make it clear, I am not advocating either. First, it is like, what is the fairness between restricting the density on one type of agriculture versus another type of agricultural land? Then, if you are going to go towards that we are going to restrict it on IAL, then we should restrict it on all agricultural lands. There is going to be a huge blow-back because I do not think it is fair to start reducing the density on farmers. You talk about a definition of what is a "gentleman estate." You have farmers that have land that want to build houses, and then we are going to tell them, "Oh, you work hard farming, but we are going to limit the size of your house now on your property," on bona fide farmers because a few people are taking advantage of it? As this Bill goes through, I can envision there is going to be a lot of push-back and blow-back on it just as far as what is our intent and why are we pushing this through? I mean, everyone was okay with IAL, everyone is okay with their current agricultural land, and then we are just further restricting people that already have a difficult time farming in the first place. I do not know how this is going to go. There is unfairness in this Bill already. Then, if we are going to try to make it fair to everyone, there is going to be an even bigger blow-back. That is just my comments.

Council Chair Rapozo: I think we all know what we are targeting, is the fake farmers. Those are the ones. We do not want to go after the legitimate farmers who want to build homes for their family or whatever. It is these people who come here that purchase these lands, build a mansion, do not farm, and they are not even here. That is, I think, where we have to really look at and not punishing the farmer. It is going after who...and why be secretive? That is who we want to target, the people that are building mansions on agricultural lands and they do not farm. They do not live here. Whether it is a vacation rental or a part-time residence, that is the target. We want to preserve—the State law says us we have to preserve agricultural lands for farmers. So I agree with what Councilmember Kaneshiro is saying, but let us just clarifying who the real target is. I do not have a problem telling these people that we do not want them building a mansion on agricultural land. It is not discrimination, that land is for agriculture and not for their little, miniature resort. Councilmember Yukimura.

Councilmember Yukimura: In order to target those country estates or to support the farmers, you have to define who is a country estate and who is a farmer. That is the importance of definitions. If you do not define it, then we are going to go through this regular process that jurisdictions have gone over, over the years and our agricultural lands will disappear. It will become urban, rural, and residential spread out development. If that is what we want for the island, then do not define it. Just be really ambiguous, do not enforce it, and just let it go to all of this fragmentation of agricultural land that turns into country estates. The reason why these bills are so important is if we want to truly diversify as well as provide for self-sufficiency and really create a strong agricultural base. In order to do that, we have to have some clear definitions. I do remember a workshop that was sponsored by the Office of State Planning that showed in Connecticut or elsewhere, they are defining it and they are actually increasing their agriculture industry and sector. So that is the really key thing. If we just go lazy fair, say, "Oh, we cannot define it. It is really hard." We are never going to protect agriculture and develop a new foundation for our economy.

Council Chair Rapozo: Councilmember Kaneshiro. I am sorry, Councilmember Chock has had his hand up. I am sorry, Councilmember Chock. Go ahead.

Councilmember Chock: I am just curious. I know you said the Agriculture Task Force reviewed it, has any others like the Farm Bureau, looked at this Bill as well?

Mr. Hull: I cannot speak to that. They did not provide comments to it, but I cannot speak to if they have reviewed it.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Did you have something?

Councilmember Kawakami: We have the power and ability to define "agriculture" and if any one of us wants to really define agriculture and protect agriculture, give us a starting point. Introduce a bill, put the definition in, and let it go through vetting process. This issue has been here from the beginning of time and it is nothing new. So, if any one of us here wants to put a number on what a farm looks like, let us do it. I am just saying it is a challenge because when you actually talk to farmers themselves, they have a tough time defining it as well at times. Thank you.

Council Chair Rapozo: I did pull up the Farm Dwelling Agreement and I think it is a great starting point if you look at the Farm Dwelling Agreement, because it says and this based on Chapter 205, "A farm dwelling is define by Chapter 205 under State Land Use district regulations as 'a single-family dwelling.'" So that is number one. It has to be a single-family dwelling. "...located on and used in connection with a farm or agricultural activity provides income for the family occupying the dwelling." That is number two. So that is pretty clear. I can tell you there are a bunch of violators of that right now. I just know. Now, they define the family as used in the definition of a "farm dwelling," as defined by the Land Use

District regulations as “an individual, or two (2), or more persons related by blood, marriage, or adoption, or a group comprising not more than five (5) persons not related by blood, marriage, or by adoption.” So that is number three, and four, the definition of the family. It says, “whereas the applicants acknowledge,” remember this is an agreement, “that a violation of this statute or this agreement is subject to a citation and fine of not more than five thousand dollars (\$5,000), and failure to abide by this agreement may result in the removal of the prohibited structure at the owner’s expense.” Now, we all know that there are numerous people in violation of this agreement. Numerous. I do not think we have even cited anyone. So everyone is correct. We have to have a starting point. We need to define it. Let us start with this and let us move forward on this. We have absentee owners. We all know, right? Where does the tax bill go? The mainland. You tell me we cannot figure that out? Hey, all of the agricultural properties on Kaua’i, send us the data, we are sending the tax bill to the mainland, let us compile a list, and let us send our inspectors out. Done. Five thousand dollars (\$5,000). “Hey, guess what? You have to take down that beautiful mansion at your expense.” That is how you control it, not setting thirty-five thousand dollars (\$35,000). No. This agreement is here for a reason. We have ignored it time and time and time and time again. If we want a starting point, that is where we start. You cannot get clearer. You have to derive income from the farm that that house is on that is lived in by a family. *Pau.* Thank you. Councilmember Yukimura.

Councilmember Yukimura: It is a very complex issue and I do expect the Planning Department to really think it through and look at the farm. I do not know in your discussions, if you even looked at the Farm Dwelling Agreements because then you would know some of the things there that have to be addressed. I know when we did the farmworker housing, we included the Farm Bureau, farmers, and all the stakeholders. I think Councilmember Chock asked if you have had that kind of vetting process. I do not believe we should have to do that and it is almost...I think that due diligence and work needs to be done by the proposer of the bill.

(Councilmember Kagawa was noted as not present.)

Councilmember Yukimura: That is the starting point. Your bill is the starting point, so maybe we should send it back for that kind of work.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: I think the tough part is the definition of “derived income” because I think like what our Deputy Director was saying, someone shows that they have a derived income from selling some papayas at a Sunshine Market, I think that is what qualifies, so I think the starting point is very broad and that is why we are having the discussion as to the difficulty of just defining how much income that derived income actually is. Like I said, this is a work in progress. I do know that I think the intent of this measure was to create that delineation between AG1 and AG2, to really start prioritizing Important Agricultural Lands, putting tougher restrictions on it, and then also taking a look at the R-1/R-2 designation, which Rural, and allowing actual agricultural uses, which was the intent of creating R-1 and R-2. I think that as the discussion has gone along, we have identified other

areas where we can improve on protecting these agricultural lands. But the intent of today is a starting point to create that R-1/R-2, provide uses that are consistent with agriculture, and to also protect the Important Agricultural Lands as well. Thank you, Council Chair Rapozo.

Council Chair Rapozo: I think the intent when they designed this Farm Dwelling Agreement was to keep it broad, but I think that you have to have a farming operation. I do not care what State says, if you have one (1) papaya—I have a mango tree. That is not a farm operation. Even if I took my mangos to the Sunshine Market and sold them for whatever, that is not a farming operation. I think that is the question and the broadness of it. Do you know if that Farm Dwelling Agreement was amended?

Mr. Hull: Not to my knowledge.

Council Chair Rapozo: I noticed on the internet, it is showing that it is 2014, because I honestly remember that thing a little more restrictive back when we did the Transient Vacation Rental (TVR) in 2008, 2006, or 2007, whenever that was. I am not sure if we amended it to make it broader, but...

Mr. Hull: I can check.

Council Chair Rapozo: I know I have the original in my files, but I could be wrong. Councilmember Yukimura.

Councilmember Yukimura: I would like to ask for a briefing on the IAL process and on where the IAL are designated so that we know what we are regulating by this proposal. Also, I wanted to say, Council Chair Rapozo, that it is not just absentee owners who own country estates. It is a lot of local residents who live here on agricultural land, who are not doing agriculture in any significant way, and that is the hard thing. What is “agriculture?” How do you define it? If you take a few of your avocados to the Sunshine Market, is that agriculture? It is really complex, but the other thing about this is that we are not just talking about existing farmers who often, I mean, I have great sympathy for this, have to sell their lands in order to get their retirement and they will sell it to the highest bidder. So, what was once farming then by the next generation, is not farming. There are a lot of issues. It is like in future generations, if that just keeps happening, then our farmlands will no longer be farmlands. That is how complex the issue it. The other thing is that maybe the biggest bar to country estates is to not allow condominiumization. In our original agriculture law, which was very far-sighted in many ways, the first agricultural subdivision law said we would have a mix of sizes, so they said so many five (5) acre lots, so many ten (10) acre lot, so many twenty (20) acre lots, and then a huge remnant parcel so you could have a real variety for a variety of agricultural. Then, they had the one (1) dwelling unit for the first acre and then another in that law, and that was so that you could have farmworker housing. They knew that a farm could not be done by just one (1) family, so maybe you wanted three (3) families. The larger the land, you wanted more units. But then the real estate industry came in and invented condominiumization so that the minimum size of a lot is no longer five (5) acres. It is now one (1) acre and two and a half (2½) acres, and not only that, it is not only in

one (1) ownership. It is in fragmented ownership so you did not have one (1) farm with several houses and families working on it. All of a sudden, you had—it is more conducive to country estates than a farm. We have prohibited condominiumization of Addition Rental Units (ARUs) because we understand the need to have one (1) ownership. Why are we not doing that to agricultural lands and enforcing the original intention of our agricultural laws?

Council Chair Rapozo: I guess the question that I will pose to the County Attorney in writing anyway, not for today is, how can we include the prohibition to Condominium Property Regime (CPR) in this Bill? This would probably be the time to do it. We do it for ARUs. We just have to be very smart on how we do it. That will be the question posed to the Attorney because I think that is a cause of a big problem. That is the root. If you go back to the root problem in all of this, it is the CPRs.

Councilmember Yukimura: May I?

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: The problem is, now that you have a twenty (20) acre piece that is surrounded by rural—oh, that is the other problem. The State definition of “rural” half-acre, but they are allowed an additional dwelling unit (ADU), so it is actually a quarter-acre lot. A quarter-acre lot is urban. Rural, thank God we only have a few acres of rural on this island, because rural is suburban sprawl. It is quarter-acre lots.

Council Chair Rapozo: Hang on. We are coming up on a caption break. I want to end this item. Are there any more questions for these two (2) gentlemen? If not, thank you both.

Councilmember Yukimura: Well, Planning Committee Chair, I would like to have a briefing on IAL. I think that is really important.

Councilmember Chock: Do you want that in a Council Meeting or in a Committee Meeting?

Council Chair Rapozo: Planning Committee.

Councilmember Yukimura: In Committee, I think.

Council Chair Rapozo: Yes, in the Committee. Thank you very much, gentlemen.

Mr. Hull: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify? Seeing none, I will call the meeting back to order.

There being no one present to provide public testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any further discussion, not that we have not discussed it to death?

Councilmember Yukimura: We worked on farmworker housing for three (3) years.

Council Chair Rapozo: Yes, it is going to be to be a while. I can see this one take a long time. But if you have any questions, get it over to the Planning Department. The public hearing is set for September 26th. With that, the motion is to approve. Roll call.

The motion for adoption of Proposed Draft Bill (No. 2719) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for September 26, 2018, and referred to the Planning Committee was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Rapozo	TOTAL – 6*,
AGAINST ADOPTION:	Yukimura	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Mr. Sato: Six (6) ayes.

Council Chair Rapozo: Next item.

Proposed Draft Bill (No. 2720) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SUNSHINE MARKETS

Council Chair Rapozo: Before we entertain the motion to defer, we have had all of the discussion. Is there any other pressing discussion? I have to allow the public to testify. Is there anyone wishing to testify on Proposed Draft Bill (No. 2720)?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: If not, go ahead.

Councilmember Yukimura: Is that the Sunshine Market Bill?

Council Chair Rapozo: Yes. Councilmember Brun.

Councilmember Brun moved to defer Proposed Draft Bill (No. 2720), seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you, roll call.

The motion to defer Proposed Draft Bill (No. 2720) was then put, and carried by the following vote:

FOR DEFERRAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST DEFERRAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Mr. Sato: Seven (7) ayes.

Council Chair Rapozo: Hang on. Do you folks anticipate spending a lot of time on Bill No. 2715 and Bill No. 2716? We have had all of the discussion in the Committee.

Councilmember Yukimura: Do you mean...

Council Chair Rapozo: Bill No. 2715 and Bill No. 2716. I would like to take that while Councilmember Kawakami is still here and then we can release him for the final Bill. Can we just go to Bill No. 2715?

BILLS FOR SECOND READING:

There being no objections, Bill No. 2715 was taken out of order.

Bill No. 2715 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2018-842, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2018 THROUGH JUNE 30, 2019, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND AND HIGHWAY FUND-CIP (*Salt Pond Wastewater Improvements and Hanapēpē Moi Road Pedestrian Safety Improvement Projects - \$765,000.00*): Councilmember Yukimura moved to approve Bill No. 2715, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I just want to say I am whole-heartedly in support of this Bill. It addresses two (2) very important needs, one is the Salt Pond wastewater improvements. We have been having some problems with that given the use of this very popular west side park. The real solution is to hook the restrooms to our sewer system, and this appropriation will accomplish that, so I am really glad. Then as we all have said before, the Hanapēpē Moi Road Pedestrian Safety Improvement, the sidewalk coming down from Hanapēpē Heights to the town, is so key and is going to make our town over there more walkable. It is one (1) part of what hopefully will be a pathway to Salt Pond as well, so it is just a wonderful project and I am really glad for this.

Council Chair Rapozo: Thank you. With that, the motion is to approve. Roll call.

The motion to approve Bill No. 2715, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Mr. Sato: Seven (7) ayes.

Council Chair Rapozo: And Bill No. 2716, please.

Bill No. 2716 – A BILL FOR AN ORDINANCE TO AMEND SECTION 5A-6.4(C) AND SECTION 5A-11A.1 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX (*Licensed Day Care Provider Homestead Tax Classification*): Councilmember Yukimura moved to approve Bill No. 2716, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: This Bill, Bill No. 2716, extends to long-term affordable rentals that are used for licensed childcare, the favorable tax rate already granted under County law to owner-occupied homes used for licensed childcare. In doing so, it provides equal treatment for in-home licensed childcare whether in an owner-occupied home or in a long-term affordable rental. This is consistent with our overall real property tax policy of taxing based on use. Without this Bill, a homeowner doing licensed childcare would pay three dollars and five cents (\$3.05) per one thousand dollars (\$1,000) of assessed value, while a landlord renting an affordable rental to a licensed childcare provider would pay eight dollars and ten cents (\$8.10) per one thousand dollars (\$1,000) assessed value, a difference of about three thousand five hundred dollars (\$3,500) each year, everything else being equal. This would likely cause the landlord to pass on that difference to the renter or childcare provider who would then pass it on to families, or the landlord would refuse requests to do childcare in his or her rental, thus making childcare harder to provide for and for parents harder to find childcare. By passing this Bill, we will be recognizing the importance of quality childcare services to our community. Brain research shows that early childhood development has far-reaching effects into the future affecting both physical and mental health, learning, and performance. Research shows that the quality of childcare development at time of school entry predicts performance in school programs. Countries that provide quality universal early development programs for families with young children tend to outperform countries in which early development programs are ad hoc. Kaiser Permanente studies in California found that adults with mental health problems, addictions, obesity, Type 2 diabetes, coronary artery disease, and other conditions in adult life had poor early child development. My friend and mentor, the late Phyllis Kunimura, a beloved master teacher and founder of one of the most sought after preschools on Kaua'i, would be proud of us today. Although, if she were alive, she would be challenging us to do more much. On Kaua'i, we love our *keiki* and approving Bill No. 2716 is a good way to demonstrate that love.

Council Chair Rapozo: approve. Roll call.

Thank you. With that, the motion is to

The motion to approve Bill No. 2716, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro,	
	Kawakami, Yukimura, Rapozo	TOTAL – 7*,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

Mr. Sato:

Seven (7) ayes.

Council Chair Rapozo: Thank you. We are going to take a break. We have one (1) more item, but we are going to do the Executive Sessions first. Let us take five (5) minutes. Hō'ike, we will go into Executive Session. I anticipate that being about thirty (30) minutes, and that is just so we can release Councilmember Kawakami because he is recused from the next open item. We will do the Executive Sessions and then we will be back, let us say we will try to be back at 12:00 p.m. and hopefully wrap that up by lunch.

Councilmember Yukimura: A caption break?

Council Chair Rapozo: Yes, they are going to be on a (30) minute break because we are going to go into Executive Session right now.

Councilmember Yukimura: Oh.

Council Chair Rapozo: They will be on their extended caption break. With that, we will try to reconvene at noon or shortly thereafter. Thank you. I need a motion to go into Executive Session.

EXECUTIVE SESSION:

ES-959 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing and request for authority to settle the case of The Hertz Corporation v. Roselyn Martin, et al., Civil No. 17-1-0137 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-960 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on the Habitat Conservation Plan for the County of Kaua'i and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-961 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, requests an Executive Session with the Council, to provide the Council with a briefing and request for authority to settle the case of Cameron Raymond v. County of Kaua'i, et al., CV 15-00212 ACK-RLP (United States District Court), and related

matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kawakami moved to convene in Executive Session for ES-959, ES-960, and ES-961 seconded by Councilmember Brun.

Council Chair Rapozo: Roll call.

The motion to convene in Executive Session for ES-959, ES-960, and ES-961 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Rapozo	TOTAL – 7*
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

There being no objections, the meeting recessed at 10:37 a.m. to convene in Executive Session.

The meeting reconvened at 11:19 a.m., and proceeded as follows:

(Councilmember Kagawa was noted as present; Councilmember Kawakami was noted as recused.)

Council Chair Rapozo: Can we have the last item, please?

Bill No. 2687, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, SECTION 8-2.1(A) AND SECTION 8-4.2(A), AND CHAPTER 10, SECTION 10-5A.7(A), KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE AND LIHU'E TOWN CORE URBAN DESIGN DISTRICT: Councilmember Kagawa moved to approve Bill No. 2687, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. Is there any discussion?

Councilmember Yukimura: Yes, I have an amendment.

Council Chair Rapozo: Okay.

Councilmember Yukimura moved to amend Bill No. 2687, Draft 1 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Brun.

Councilmember Yukimura: Thank you. May I explain it?

Council Chair Rapozo: Sure, please.

Councilmember Yukimura: This amendment would allow R-40 density, but it would be limited to the first two hundred fifty (250) units that have a complete Zoning Permit application that has been accepted by the Planning Department. Basically what it does is it allows the doubling of the density, but only to the extent that infrastructure is available. To me, it is really dangerous to give out more entitlements than you can actually support so this is, I think, with the intent of the Bill. It does have a sunset clause where it says that if they do not build within ten (10) years of the issuance of the Zoning Permit, then their entitlement will expire. The second part, "No multiple-family dwellings under this section shall be eligible for additional rental units (ARUs)," we just reformatted it. That is why it looks like an addition, but we had already put that in already. The new part of this amendment is (a). Are you looking at my proposal?

Councilmember Brun: Yes.

Councilmember Yukimura: I think it is a cleaner proposal and it will not give out extra entitlements. I think it is dangerous to give out entitlements that we cannot support with infrastructure. It also limits our ability when you give out too much zoning than you really are able to support. For example, I think the Planning Department has told us that transferred development rights do not work because we have given out so much zoning, and this just does what we need to do without causing any unintended consequences. Are there any questions?

Council Chair Rapozo: Was Planning sent a copy of that?

Councilmember Yukimura: Yes, they were. I do not know why Ka'aina—oh, here he is.

Councilmember Brun: Can I have...

Council Chair Rapozo: I remember them saying—I think Mike was saying they were not in support, but I do not know. Are there any questions? Okay, I will suspend the rules.

There being no objections, the rules were suspended.

Mr. Hull: Aloha, again, Council Chair Rapozo and Members of the Council.

Councilmember Yukimura: I just want to also say that when we have infrastructure for more, we just lift the cap. We just amend this and we remove it, or we put five hundred (500) if now that is an amount that we can handle. But it really will give incentive to those who want to use it, to use it and to do what we want to see happen, have redevelopment of Lihu'e Town with residences in there. I think it really does fulfill the original intention of the law without over-zoning.

Council Chair Rapozo: Ka‘āina.

Councilmember Yukimura: In a way that we cannot support.

Mr. Hull: Yes. With all due respect, I understand where you are coming from, Councilmember Yukimura. While the Department can support Subsection (b) that no multi-families are allowed to do ARUs, Subsection (a), the restriction to two hundred fifty (250), we cannot support.

Councilmember Yukimura: Why?

Mr. Hull: Because it is essentially—I mean, those two (2) in conjunction with each other actually reduces the density of Rice Street as it exists today, and the overall purpose of the Bill is to increase density to try to attract investment into the area to provide for housing opportunities. But right now as it sits as the County Attorney gave the position that ARUs potentially qualify in this area, that means right now, you can do an ARU and R-20. The proposal right now is saying, “no ARUs and only two hundred fifty (250),” meaning it actually restricts density from what exists today and the Department cannot support that.

Councilmember Yukimura: May I?

Council Chair Rapozo: Go ahead.

Councilmember Yukimura: How does it restrict density and not allow more density?

Mr. Hull: Because technically...

Councilmember Yukimura: Because it is allowing R-40.

Mr. Hull: Because technically right now, you can do R-20 with an ARU. So, twenty (20) of units and twenty (20) ARUs on one (1) piece of property, but overall, you have several acres. Right now, arguably with ARU, you have the R-40 and you just cannot CPR it off. With the proposal as it sits right now, the amendment is saying, “no ARUs,” so it is back to R-20. Sorry, you go to an R-40, but then you say, “but you can only build two hundred fifty (250),” so it is much more restrictive than what actually exists today, and the intent and purpose of this Bill is to increase density overall in this area.

Councilmember Chock: I have a question.

Council Chair Rapozo: Go ahead.

Councilmember Chock: We amended previously in the Committee. We amended it so that the ARU was addressed.

Mr. Hull: Yes.

Councilmember Chock: I guess what I am hearing you say is, with the ARU now in Section (b) with the two hundred fifty (250), it now compounds that even further?

Mr. Hull: Yes.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: What if we just instead leave the—not to exceed our density—we just move the ARU restriction up? I think I see what you are saying, but I think there is a way to change that so that we get the result we want, which is the first two hundred fifty (250) units can be R-40 and any R-20 left, would allow ARUs. Is that what you are saying?

Councilmember Chock: Would it not be to just take out Subsection (b)? Would that not accomplish what she is trying to accomplish?

Mr. Hull: Well Subsection (b), I think—well, overall as you said in the Committee, you folks have already taken care of the fact to establish no ARUs in this area. Even absent Subsection (b) or whatever you folks did previously, and I apologize. Mike Dahilig has been playing point on this, but he has been activated at the Emergency Operating Center (EOC). So if you folks have already taken care of the area where ARUs are not permissible in this district and then restricting under Subsection (a) to only two hundred fifty (250) units, that means you are essentially restricting density from what exists today on the ground, which is R-20 with ARUs.

Council Chair Rapozo: Go ahead, Councilmember Yukimura.

Councilmember Yukimura: What we are saying is maybe we did not even need the R-40 bill if you allow the ARU bill, too, right?

Mr. Hull: No. For density purposes, yes, there is no difference, but for the market analysis that investors need do and some of them will have to sell these units off, the ARU does restrict it from being sold.

Councilmember Yukimura: Right, so it is better to say R-40 and no ARUs?

Mr. Hull: Yes.

Councilmember Yukimura: That is the better way?

Mr. Hull: Yes.

Councilmember Yukimura: Okay.

Mr. Hull: And we are okay with that.

Councilmember Yukimura: Okay. This does not restrict density. The first two hundred fifty (250) units will be in the context of an R-40, so a lot that with the R-20 that had only two (2) units, now can have four (4) residential units, so it does allow R-40.

Mr. Hull: Only up to two hundred fifty (250) though.

Councilmember Yukimura: Right, because that is all the infrastructure there is. It does not make sense to give additional density when they cannot build. So, it is allowing people to have R-40 up to the point of that they can build, which is the only thing that this Bill would do anyway. There is a two hundred fifty (250) limit even if you did everything R-40 because of infrastructure. What my amendment does is it prevents a landowner to have density without the ability to build it because there is no infrastructure, and that is a terrible dilemma to put landowners in.

Mr. Hull: Well, that is the thing. I work for the Planning Department, so I think planning is very important, but planning is just one (1) element in the construction of housing or a housing development. It is the first generally check on the checklist. Is there zoning? They check that and then they move on. Is there water? They check that and they move on. Is there wastewater? They check that. So it is the first element of it, but ultimately, after receiving the land use zoning entitlement, then they have to ultimately access the adequate infrastructure, and if it is inadequate, wait for it to be build up, or they themselves as a developer, they build it. Now to throw onto a developer, a property owner, or a homeowner to say, "You can only build two hundred fifty (250) because that is what infrastructure requires," that is fine and dandy. But then, say a homeowner or property owner is willing to upgrade the infrastructure. Now, we have put a whole new task to say, "You have to upgrade the infrastructure and in addition to that, you have to go to County Council to amend the Comprehensive Zoning Ordinance" for which that leaves things up in the air. Right now, that is the last thing or one of the barriers for housing construction, is uncertainty of the market. If they are uncertain whether or not they can get the County Council, which is in place at time after the two hundred fifty (250) is met, that will serve as a barrier. The whole purpose of this Bill is to reduce barriers in the Līhu'e area to get housing constructed. It is not going to compel housing. It is reducing barriers and facilitating it better.

Councilmember Yukimura: The thing is that there is already a barrier in the infrastructure. So when you do that and you have an oversupply of entitlements and not enough infrastructure then you have all these owners competing for the infrastructure, whereas if they could have the certainty that this is the area and there are plans for the infrastructure, then it is much better for them as developers. So that is where planning gives more certainty, because planning brings together the land use zoning with the infrastructure. That is what planning does. It coordinates transportation, water, sewers, et cetera, and this way we are tossing that up to a no man's land.

Mr. Hull: Any developer that is going to do a multi-family housing project is not going to come to the Planning Department, quite

honestly, get a Zoning Permit and then go, "Oh, my gosh. I did not check on the infrastructure. I was unaware of it." Any person that is going to put multi-million dollar investments into a multi-family housing project is going to be working with all of the agencies to ensure all the ducks are in a row. I can also pretty much guarantee that the same developers or investors are going say, "If I have to go to Council and that adds an additional barrier, I have to reconsider that project."

Councilmember Yukimura: Of course, and we are not talking about them coming on a parcel-by-parcel basis. We are coordinating it with our infrastructure plans so then if the Department of Water comes in with plans for building a water system and enabling this, then we increase the land use.

Mr. Hull: Yes.

Councilmember Yukimura: Because right now, the Department of Water and I refer you—Yvette, did we pass out what we got from Brian? Okay. Did everyone see that? Right now, they do not have any additional capacity for new growth areas. They will work on amending their Water Plan, but they do not have any...

Councilmember Kagawa: Council Chair Rapozo, are we going to get to have our side of the story told as well? We are only hearing just one (1) side.

Council Chair Rapozo: I am trying to give as much latitude. I want to hear questions of Planning and not so much a debate on philosophy.

Councilmember Kagawa: I think we went over this last week, actually, all of this.

Council Chair Rapozo: We did.

Councilmember Kagawa: And it was Mr. Dahilig that was here and now it is Mr. Hull. We are just asking the same questions that we did in Committee, and I would like to say my piece about the infrastructure.

Councilmember Yukimura: Yes. Council Chair Rapozo, I do not want to squelch any debate, but it was after our discussions last week that I conceived of this amendment, which is a floating zoning, that would be better tied to the reality of infrastructure. I think it gives for more orderly growth and that is why I came up with this because it is better—I mean, that is what planning is about, orderly growth. Why would you give out a lot of entitlements when you do not have the water or the infrastructure that is going to enable them to actually build, which is our goal, to get actual building on Rice Street?

Council Chair Rapozo: And we had gone through that extensively last week. Councilmember Kagawa.

Councilmember Kagawa: The frustrating part is that as much as I agree with some of the points that you are saying, we heard last week from Mike and the Department of Water that unfortunately, they do not put infrastructure based on

what a County Councilmember thinks they should. They put infrastructure in on an as-needed basis. If they have enough infrastructure existing, of course, you would get a fast approval. If infrastructure is not there, then they will move forward with plans to add more infrastructure or plans to work with the developer. I mean, we had this discussion before. Unfortunately, the Department of Water and sewer does not put infrastructure based on projections going forward. While that would be nice from a planning standpoint, they do not work that way and have not worked that way in all of these years. Maybe we need to change direction in how these infrastructure demands in the future that they can, I guess, reliably predict to put that forth, but it is not how it happens. I think Ka'aina was excellent in his responses as far as we want to spur on growth; however, when the developer is fine and ready, they will go to the various sewer or water and will go for the approval, then they will be told as far as what is there for them to get approval and if it is not there, what they can do to make it faster or how long they will have to wait for the Department of Water or Sewer Division to get them hooked up. It is a frustrating, long process at times, but it is the reality. I think we, today, have to vote on what is the reality now and not vote on whether we think water and sewer should be as far as taking direction from Planning. I know it is frustrating, Councilmember Yukimura. You stated your point. I agree with some of it that yes, it is better to have the cart before the horse.

Councilmember Yukimura: You mean the horse before the cart.

Councilmember Kagawa: Horse before the cart, yes. Unfortunately, it is not there as far as the infrastructure demands that you are seeking at this time. All we are looking at is if we ready to support what we worked on Committee today. If not, let us send it back to Committee and have more detailed discussions. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you. We have had this discussion, I agree, last week and probably the week before. But I just wanted to confirm, because really what we talked about was that the policy here would drive the outcome that we are looking for, which is increased density. And you agree...

Mr. Hull: Yes.

Councilmember Chock: ...and you believe that if we stay the course on what we are currently proposing, that the Department of Water will then, even though they said in their responses to us that there is no capacity, would direct them to actually find and develop that capacity. Is that what you are saying?

Mr. Hull: That is essentially what happens. It if there is no capacity at time and you either stay on Water's schedule when they anticipate upgrading it, or the only way can you do it is you upgrade it yourself. We see a common occurrence on large-scale development projects where they have to come in and put in upgrades to the infrastructure; wastewater, water, or otherwise.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: The Department of Water said that—the question was, “How is the Department working with Planning Department,” so how is the Department of Water working with the Planning Department, “to target growth areas for additional capacity and how is this being included in the Water Plan for 2020?” So that your thought, right? We with say that by our zoning, this is where growth is going to be and therefore, the Department of Water would respond. The response to that question is, “The Department of Water provides comments to proposed growth areas identified by the Planning Department. Water Plan 2020 took into account the General Plan existing at that time. Additional capacity for newly established growth areas will be considered as the Department of Water works on updating its Long-Range Water Plan.” So far, so good. You are saying, “This is where we want growth” and their Water Plan is going to say, “This is how we are going to support it,” so that is my question then. We have said already with zoning that we want growth to happen between the hospital and Kapule Highway on Grove Farm lands. I am saying, “Where is the water?” Okay? I want to make sure there is water there and that was, I believe, before the Water Plan 2020. I want some assurance there is water and that the process is working. We say we want growth here and the Water Plan shows that there is going to be water for this growth area, but I do not see that happening because if I can be assured that the existing growth is taken care of, then maybe I can have some comfort that the Department of Water’s next big push is going to be for Rice Street, but I cannot even see that existing growth has been taken care of. The area that we have already designated for growth has the water because if we have all of these areas designated for growth and there is no water system to support it, we are doing wrong by the developers and we are doing wrong by ourselves because we are going to have hodgepodge development or it might not happen. I do not get it.

Mr. Trask:

Mauna Kea, County Attorney, for the record.

Just to clarify the intent of this Bill because I do not think it is been said yet, but in looking at the issues that this Bill is to address, which is more housing opportunities, the affordable housing crisis is a crisis throughout the Country and it can also be understood as just not enough housing product. We researched the economics in inclusionary zoning. We did extensive research. I have a law review article here from Yale Law School. This is Robert C. Ellickson, *The Irony of Inclusionary Zoning*. I also have one from Willamette Law Review Michelle DaRosa 2007. She actually looks at all of the inclusionary zoning programs in Hawai‘i, so all of the different Counties in Hawai‘i. She did an extensive analyses on it. What they come up with is this, and she cites it, that “although many communities around the Country have experimented with affordable housing exactions for over three (3) decades, these regulations have only resulted in fifty thousand (50,000) units being put up across the whole Country.” So they acknowledge the economics of it, the base economics, “that many officials who draft and administer inclusion zoning programs appear to lack a sophisticated economic understanding of housing productions, the workings of housing markets, and public finance.” Basically, it comes that “low a moderate income families benefit from the construction of housing at all levels of quality, including the highest quality units that they could not conceivably afford to buy.” What they are saying is this, the problem Kaua‘i is not there is a lack of affordable

new housing. There is just a lack of housing. Then, the old housing becomes a five hundred thousand dollar (\$500,000) or six hundred thousand dollar (\$600,000) product. That was never intended to be built as such. The intent of this, you could say that if there is no zoning, they are not going to put the infrastructure so we have to do the zoning. There is no infrastructure so they are not going to the zoning. It creates a false dilemma. You win and lose both ways. The intent of this Bill is to create the zoning entitlements to encourage, when it is necessary, the infrastructure to follow because otherwise, you are never going to build anything. The intent here in limiting zoning to any number of units aside from the R-40 and the prohibition against ARU, is not the original intent of this Bill.

Councilmember Yukimura: I am sorry, we are not asking—this is not a legal opinion you are giving us and we are not talking about affordable housing.

Mr. Trask: Excuse me, I am talking about...

Councilmember Yukimura: We are just talking about housing.

Mr. Trask: I am talking about the intent of the Bill, which that is the intent.

Councilmember Yukimura: Well, I am not disagreeing with the intent of the Bill.

Council Chair Rapozo: Perfect, then let us...

Mr. Trask: Thank you. That is all.

Council Chair Rapozo: Perfect.

Councilmember Brun: Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: I have a question around that because it keeps coming up that we just have to supply more homes and that is the direction that we can go and yet, I think the counterargument and the fear is that we cannot compete with outside investors, for instance, who can come in at any time and build the kind of housing that none of us can afford. That is the fear that I think we are having around the table when we have those entitlements. The balance that I am asking for and maybe the question for Planning is, how do we create mechanisms in order to kind of direct the kind of development that we are trying to move towards that would give us at least some market or somewhat affordable housing, rather than allow, and I hate to say it, but something like Kaka'ako to occur in that sense? Is there any response to that, because I think that is where you are seeing some of these things come up from the Councilmembers in terms of trying to limit and throttle what kinds of things we are supporting?

Mr. Hull: I get the question. I think even what Mauna Kea was going into is, how do we ensure it is the product that we want? We want to spur on housing and there is housing development going on Kaua'i, right, but it is not the type of product that we necessarily want to fully support. We have large mansions going up in various areas, but we are looking at the target market for local families being smaller homes, more often than not, giving the market what is bearing apartments because they are cheaper. How do we get more of that product, essentially constructed? Right now, well, for the most part, it is not being constructed at all. It is almost like we have several throttles in place, one of them is our Housing Ordinance, right, and there is some discussion on whether it is too much of a throttle right now going on. Does that become such a barrier to actual housing that we throttled it too far? I know that the Housing Agency is working on a study to specifically address that right now. But for zoning right now, we are saying that we do not want to throttle multi-family. We want to spur on as much as we can, and the way that you do that is you free up the density for them.

Mr. Trask: I think part of it, too, is it is a long-term thing, so this is not the magic bullet. It is one (1) more tool that we need to utilize in the bigger-picture and what you are doing is you are creating a—one thing, I have a friend right now who is working on building houses. His next project is Drew Brees' house. If you look at Planning's last response, "Provide an example of an R-80 structure using R-40 zoning, et cetera. Essentially, Līhu'e Townhouses accept that dwelling units half the size and twice the number." Zuckerberg is not going buy that unit on Rice Street. Drew Brees is not going to buy that unit on Rice Street. But whoever does buy that unit, we cannot ignore what is called the "trickle-down effect." You build the unit now and people buy it now at market. Over time, the layout, products, and trends change. My wife is not going to want an island anymore. She will want some other kind of kitchen. That product filters down and becomes more of an affordable product in the future. This is a short-play and long-play. It is not a derivation of anything else. It is just more units.

Council Chair Rapozo: Are there any other questions for Planning?
If not, thank you very much.

Mr. Hull: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Is there any further discussion? We are on the amendment right now.

Councilmember Kagawa: Yes.

Council Chair Rapozo: Go ahead.

Councilmember Kagawa: I see the merits of having this amendment. I do not want to criticize Councilmember Yukimura for doing it at the Council, but for me, it is like, if I use that theory of letting the infrastructure tell us what we should

and could not do, then a lot of existing R-20s, we would tell them, "Do you know what? We should take away your R-20 zoning because we are not sure on paper if the Department of Water or sewer is ready to accommodate you right now." But the fact is we have a lot of zoning that far exceeds the infrastructure that the sewers and water can currently handle. We do have zoning ahead of infrastructure in place, but the way we have sewers and water operate is that they do it as-needed basis. When those building applications come in, that is when the approvals, disapprovals, or negotiations take place. I think Hanamā'ulu is a great example. D.R. Horton did a lot of infrastructure to get the water to meet their project. The same will be with the developer that does one of these on Rice Street. I think to put a cap on it would send a message to the developers, many developers are not based on Kaua'i, we would send the message that "Kaua'i is not ready for you, we will put up too much barriers for you that will be actually causing you to waste your time, and you may as well go do your business in the Hawai'i Island or Maui." Like Ka'aina said, in fact, we need more inventory for our local residents. A lot of the projects that we have done like, Halelani, have been very successful. We want to make sure that we continue to provide these opportunities for the next generation because the next generation, like your children, Council Chair Rapozo, they do not have these opportunities in condominiums and apartments. This is the start-up inventory that they need in order to own a residence in Kaua'i at the time. They cannot buy that Pikake house right now. They do not have the equity, so we have to provide these opportunities and it is better served in the private sector providing opportunities. Thank you, Council Chair Rapozo.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: Yes. This amendment is not putting up any barriers. The barriers already exist. There is no infrastructure. This Bill is not putting up any barriers. It is just facilitating an R-40 density on Rice Street to the extent that it is possible and then on a more methodical way...and you do not want developers to have to do infrastructure parcel-by-parcel because the fire hydrant water needs a certain pipe that is going to apply to all of Līhu'e. So, you want a more regional County provided system. You might want the developers to pay for their share of it, but it is not going happen case-by-case. I believe this amendment provides more for methodical planning and actually supports development on Kaua'i because it says "wherever we invite you by putting more density, we are going to become your partners in also providing the infrastructure." We are doing it by working between Planning and the Department of Water, so when the plans are ready and the plan is already SPA-D and that shows that in the Water Plan. If the Department of Water puts in the Water Plan the infrastructure for more beyond two hundred fifty (250) units, then we come and change this restriction to feature that so that when developers come, they know they can have both the infrastructure and the zoning. To me, that would be something developers want.

Council Chair Rapozo: Anyone else? If not, the motion is to approve as amended. The amendment. I am sorry, the amendment, as circulated. Roll call.

The motion to amend Bill No. 2687, Draft 1 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and failed by the following vote:

FOR AMENDMENT:	Yukimura	TOTAL – 1,
AGAINST AMENDMENT:	Brun, Chock, Kagawa, Kaneshiro,	
	Rapozo	TOTAL – 5,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kawakami	TOTAL – 1.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: The amendment fails.

Council Chair Rapozo: Back to the main motion. Is there any further discussion on the main motion? If not, I will just make a few comments. I will not be supporting the Bill. I think I made my points clear last week. My position has not changed. I think increasing density while reducing lanes on Rice Street is—I do not think that is a good formula and that is exactly what is happening. Like I said, if the plan for Rice Street was not to change the lanes, if it was not to reduce the lanes, I would be much more open to this Bill. But with the current plans for Rice Street, I just cannot understand the logic of increasing density. Rice Street was at two (2) lanes in the past. We know what happened with that. We know what will happen when we go down to two (2) lanes and I just cannot imagine us increasing density. That is the first thing. The other thing is, as I stated, we will be giving up the Council's authority or ability to address each of these parcels that will get the double density. I do not understand why if someone wants to increase their density from R-20 to R-40, they can go through the process and then the Council would have an opportunity to voice their concerns at the time on a case-by-case basis. In this case, no one is asking. It is something that we feel that will help, yet, I do not know. I have not been called by any landowner on Rice Street asking me to support this measure. I am not sure if anyone is in a position to do it, but nonetheless, the Council will give up their ability to oversee this. I call it a gift. Once the Mayor signs this, landowners on Rice Street will wake up next morning and understand that they just got our density doubled with no exactions or conditions imposed by the Council. The affordable housing is another component, yes. To use Zuckerberg as an example is kind of an extreme. I am not concerned about Zuckerberg and all of these billionaires, but there is absolutely no assurances that any of these units will go to affordable, and I think that is a big issue. As we talked about last week and as the Planning Director agreed, this is not an affordable housing issue. This Bill will not trigger our housing policy because you just do not have too many properties in that parcel or on that block that have the ability to build more than eleven (11) units or more than ten (10) units, so it is going to be market and again, the Council will have no ability to come in and create any kind of exactions with this increased density. Obviously, I can count. It will pass, but I just want to say that for everyone that supported the Transportation Investment Generating Economic Recovery (TIGER) grant, it was with the understanding that it was going to improve the economy and so forth, but no one ever talked about increasing the density. My other concern is that as the density increases and these lot owners realize that they can put more density and they just do not have

enough space in their building, then they are going to be moving to take away the height limit on Rice Street. I have heard that talked about on this floor and I definitely do not want to see that happen. It is going to happen because we are setting it up for that. In the smaller buildings that cannot go wide, they will have to go up and you will see a future Council contemplating that, and I do not want to see that happen. For those reasons, I am just not going to support this Bill at this time. I think if a landowner wants R-40, they can apply like everyone else. We have Hanapēpē and Kapaʻa Town, both are thriving that we could look at giving them some kind of density bonuses as well because those communities are ready. I know what you folks are going to say, "No, the traffic is bad." Well, it is going to be bad on Rice Street. We have an ability right now, to at least take a breath and I do not think the traffic study that was done for the TIGER grant included doubling the density on Rice Street. Anyway, those are my points for the day. Councilmember Yukimura.

Councilmember Yukimura: I want to say that yesterday, I was driving down Rice Street and saw two (2) little boys that looked about seven (7) or eight (8), trying to cross where there was not a crosswalk around where Kauaʻi Economic Development Board's former office was. I was going toward Nāwiliwili. I motioned them to go to the crosswalk, which is front of the TSA building, so they started moving towards the crosswalk. I went and parked in front of the old theater just to help them cross. I saw the first car stop to let them cross and starting to wave to the car in the next lane to try to stop because they were really small. You could not really see them with four (4) lanes. I have to say, I saw yesterday, I was so scared for those two (2) little boys. Thankfully, all four (4) lanes stopped and let them across, but that is the danger. We will slow the traffic down because there probably will be more lines of cars, but I think it is going to be safer with three (3) lanes, one (1) being a turn lane, but it will not solve the traffic problem. It could make more congestion, which is why we have to go to a better bus system. We cannot just do it with cars.

Council Chair Rapozo: You are good, Councilmember Yukimura. It is a compliment, do not get me wrong. I understand.

Councilmember Yukimura: It is the truth, please.

Council Chair Rapozo: The way you do that, you do it so well.

Councilmember Yukimura: Thank you. I will take that as a compliment. But the other thing I want to say is that I do not agree with the case-by-case coming in and every lot having to apply. That is why doing it on a regional basis is better. But Council Chair Rapozo, I think you should have voted for my amendment because it at least limited the number of units that would get this handout of density and still give the R-40 a chance because, I have been talked to by the developer of the Crest Building, more recently known as the Salvation Army building, and do you see what he is doing? He is restoring that building that is going to be a beautiful building and there is going to be new activity and economic development. The Kauaʻi Realty building, I think he is also doing that. They asked me for R-40. They said, "We need R-40 to make it more." At that time, I did not even know the bill was coming, but I was glad when it came and so there is a need. Two (2) or three (3) more units in the Kauaʻi Realty building or six (6) instead of three (3) is good. That is why I think it is

good, but not just give density where you cannot have infrastructure. I think we could try it with this first two hundred fifty (250) and see how it works and then move on, and in the meantime, working on transportation, sewer, and water.

Council Chair Rapozo:

Councilmember Kagawa.

Councilmember Kagawa: It is good news to hear that they are fixing up that building, but I have seen numerous attempts from when I was small in trying to renovate it. It always ends up being a furniture store of some sort just with a different name. Seriously, I have seen it try to be something else, but then it always ends up being a furniture store.

Councilmember Yukimura: That is why to try it on a small-scale instead of a large-scale is going to be good. It is very exciting.

Council Chair Rapozo:

It is. I am just stoked.

Councilmember Kagawa: And to your amendment, your amendment in reality, will take place anyway. I think that is what Councilmember Chock realizes. If the infrastructure is not there, they will not get approvals to move forward.

Councilmember Yukimura: I know, but you have given people R-40 density. If you ever want to condemn it, it is going to be double the value.

Councilmember Kagawa: It will never happen, though, without the infrastructure or without them wanting to put in the infrastructure. What I am saying is the infrastructure will hold up the development and people should be on a first-come, first-served basis and hurry up. If the developers want to do it, they should hurry up because whatever infrastructure is taken up, it will delay future requests.

Council Chair Rapozo:
Councilmember Kaneshiro

Are there any other comments?

Councilmember Kaneshiro: I will make mine brief because I think I made it clear in past how my vote will go. I will be voting for this. The way I see it, I think we are following the plan and policy that we set forth in the Līhu'e Plan and General Plan. Just in general when people talk about housing, we say, "What do we want to see? Do we want to see urban sprawl into agricultural land or do we want to see infill?" I think this is the first step in following the plan; the Līhu'e Plan, the General Plan, and everything that we have been trying to do as far as creating more housing in an area where people live and work and creating more density. This is exactly what has been set forth and this is exactly the type of steps we need to take in order to get there. If we do not make moves like this, then I do not see any movement in trying to get infill or more housing. It is a scary step, but I think it is a necessary step, so I will be voting for this.

Council Chair Rapozo:

Anyone else? Go ahead.

Councilmember Yukimura:

Oh, shoots. I forgot what I was going to say.

Councilmember Kaneshiro: Just say you agree with me and we will vote.

Council Chair Rapozo: No, it was about the bus. It had to have been about that. Transportation, maybe?

Councilmember Yukimura: No. That is alright.

Councilmember Brun: Good job. I call for the vote.

Council Chair Rapozo: Last chance.

Councilmember Yukimura: Oh, yes.

Council Chair Rapozo: Okay. Go for it.

Councilmember Yukimura: I know what I wanted to say. We should know by now that we should not give density without really thinking seriously about it because you cannot take it back. That is why this two hundred fifty (250) was a good way to do it gradually. We still do not know how we are going manage transportation. Council Chair Rapozo is right. We do not know how we are going manage all of the other infrastructure. I think we should have gone more incrementally, but not one (1) lot at a time.

Council Chair Rapozo: Okay.

Councilmember Kaneshiro: We talked about smart growth for years. We have attended smart growth conferences. We have done all of this. I do not know how you can apply the principles of smart growth without being willing to take a step to increase density in an area. The smart growth principle will not happen if we do not increase the density. I think this is exactly what we need to do.

Councilmember Yukimura: My amendment increased density.

Council Chair Rapozo: Are you folks ready?

Councilmember Brun: I am ready.

Council Chair Rapozo: Or do you want to stretch this out to
12:30 p.m.?

Councilmember Brun: No, I am ready to vote.

Council Chair Rapozo: Alright. Roll call. The motion is to approve
as amended.

Ms. Fountain-Tanigawa: No, just approve.

Councilmember Brun: No.

Ms. Fountain-Tanigawa: The amendment failed.

Council Chair Rapozo: Oh, the amendment failed.

Councilmember Yukimura: Yes, the amendment failed.

Council Chair Rapozo: We are at the main motion.

The motion to approve Bill No. 2687, Draft 1 on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura	TOTAL – 5*,
AGAINST APPROVAL:	Rapozo	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kawakami	TOTAL – 1.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauaʻi, Councilmember Yukimura was noted as silent, but shall be recorded as an affirmative for the motion)*

Ms. Fountain-Tanigawa: Motion passes.

Council Chair Rapozo: With that, that concludes the business for the day. Everyone be safe, take care of your families, and we will see you folks at 1:30 p.m. for an Emergency Meeting.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 12:05 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

(August 22, 2018)

FLOOR AMENDMENT

Bill No. 2687, A Bill For An Ordinance To Amend Chapter 8, Section 8-2.1(A) And Section 8-4.2(A), And Chapter 10, Section 10-5A.7(A), Kaua'i County Code 1987, As Amended, Relating To The Comprehensive Zoning Ordinance And Līhu'e Town Core Urban Design District

Introduced by: JOANN A. YUKIMURA

Amend Bill No. 2687, SECTION 4, to read as follows:

"SECTION 4. Section 10-5A.7(a) of the Kaua'i County Code 1987, as amended, is hereby amended as follows:

"(a) Generally Permitted Uses and Structures in SPA-D.

- (1) Accessory uses and structures;
- (2) Art galleries and sales;
- (3) Churches and temples;
- (4) Clubs, lodges and community centers (private);
- (5) Commercial indoor amusement and recreation facilities;
- (6) Convenience store and neighborhood grocery stores with a twenty thousand (20,000) square foot building footprint or smaller;
- (7) Home businesses;
- (8) Hotels and motels not to exceed RR-10 density;
- (9) Household services;
- (10) Light manufacturing, such as handicrafts and garment fabrication;
- (11) Minor food processing, such as cracked seeds, jellies, candies and ice cream with a twenty thousand (20,000) square foot building footprint or smaller;
- (12) Museums, libraries and public services;
- (13) Offices and professional buildings;
- (14) Parking garages/structures;
- (15) Personal services, such as barber and beauty shops, salons, Laundromats, shoe repair shops, etc.;
- (16) Public offices and buildings;
- (17) Public parks and monuments;
- (18) Restaurants and food services;
- (19) Retail sales and shops with a twenty thousand (20,000) square foot building footprint or less;

(20) Multiple-family dwellings not to exceed R-20 density [provided no dwellings shall be eligible for additional rental units (ARUs) pursuant to Ordinance No. 1026;] provided that:

(a) The first 250 units for which complete zoning permit applications have been accepted by the Planning Department may have R-40 density on a first come, first serve basis. The R-40 zoning shall be void for any R-40 entitlements that are not built within ten (10) years of issuance of the zoning permit, as evidenced by certificates of occupancy.

(b) No multiple-family dwellings under this section shall be eligible for additional rental units (ARUs) pursuant to Ordinance No. 1026;

(21) Single-family dwellings;

(22) Schools and daycare centers.””

(Material to be deleted is bracketed. New material to be added is underscored.)

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